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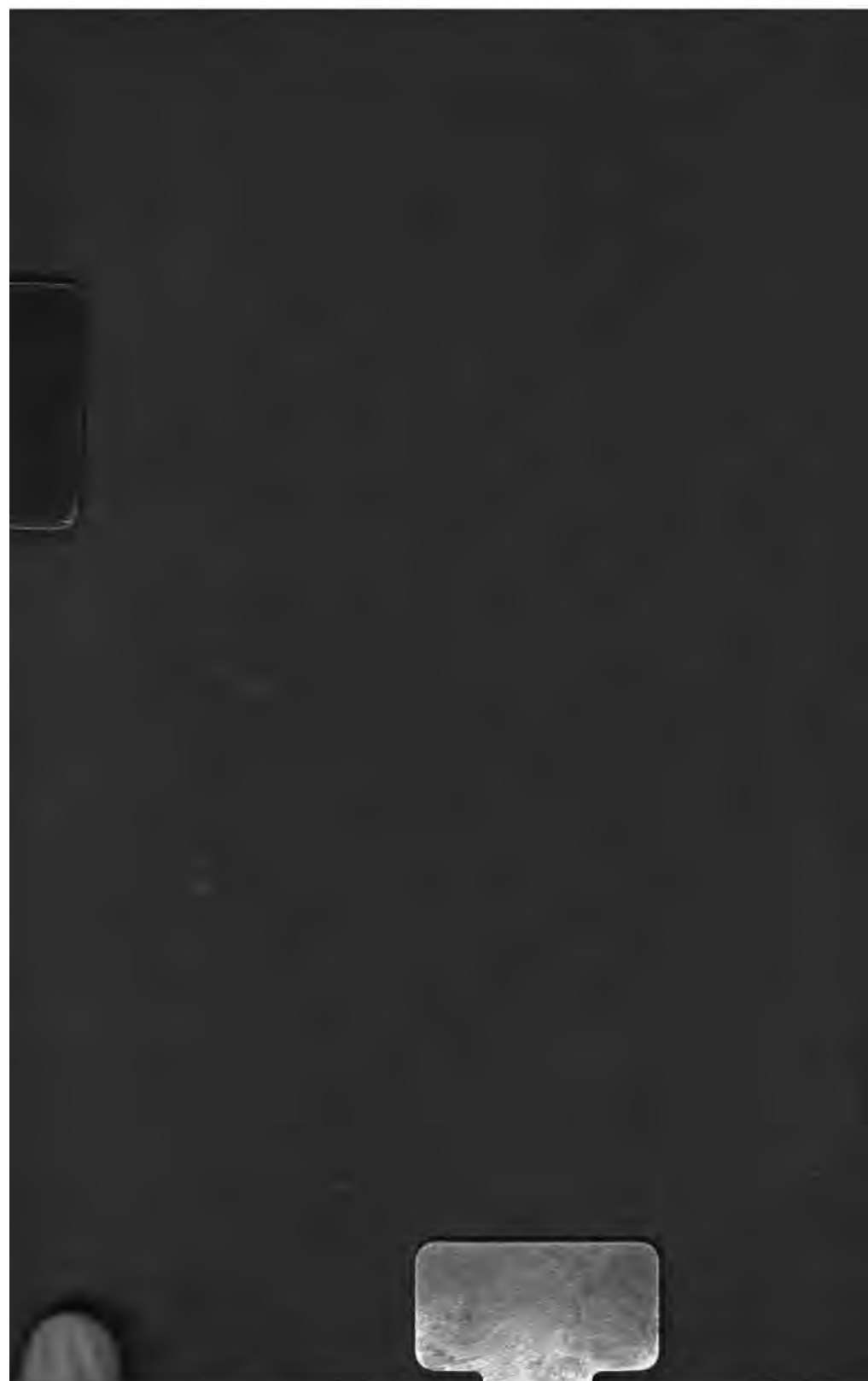
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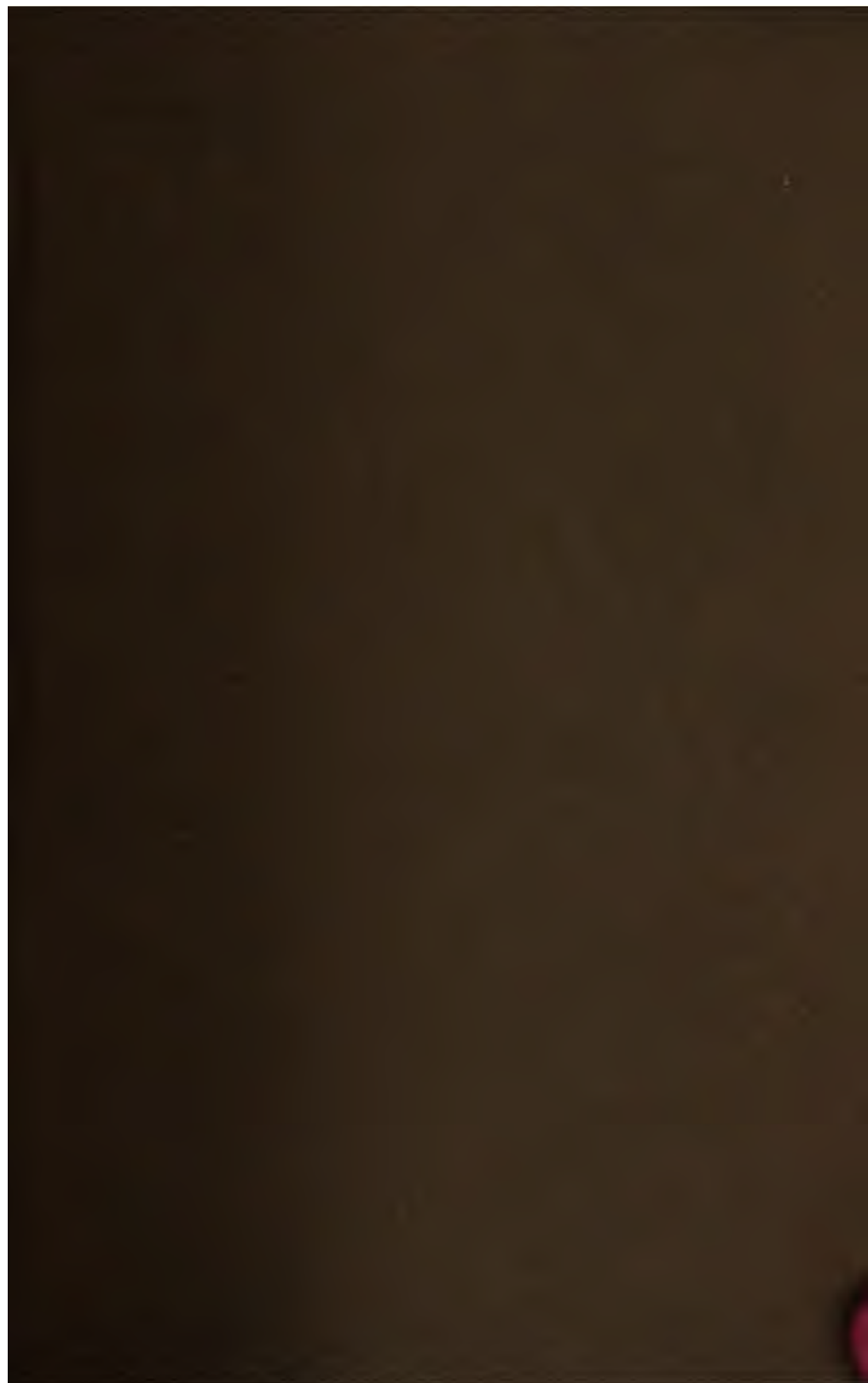
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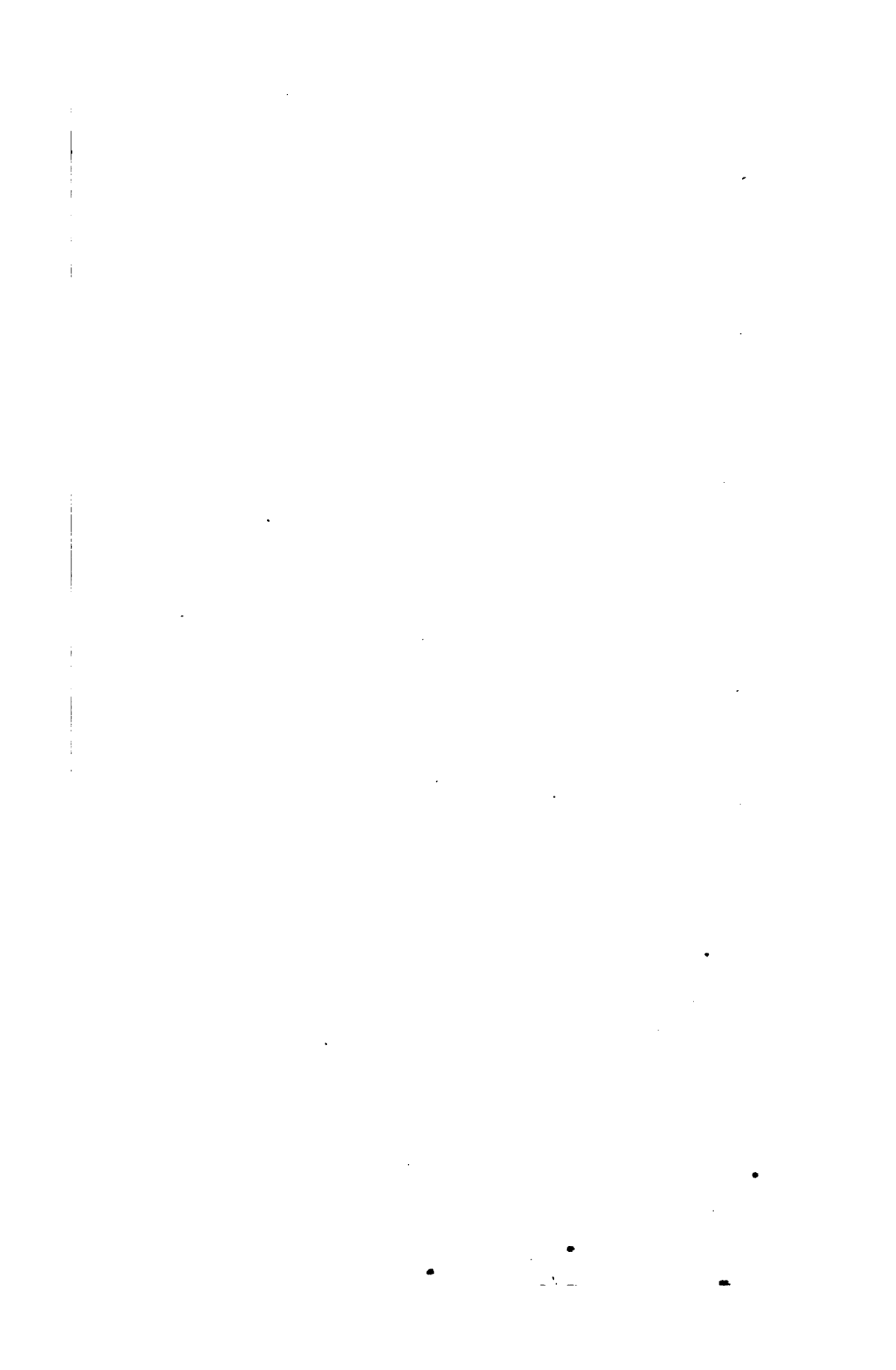
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A
SELECTION OF ACTS
FOR THE USE OF
THE METROPOLITAN POLICE;
COMPRISING
THE ACTS RELATING TO
THE METROPOLITAN POLICE FORCE
AND
METROPOLITAN POLICE COURTS,
AND SUNDRY OTHER ACTS.

EDITED BY
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OF THE INNER TEMPLE, ESQ., BARRISTER-AT-LAW.



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							Page
INTRODUCTION	-	-	-	-	-	-	iii
CONTENTS	-	-	-	-	-	-	vii
CHRONOLOGICAL LIST		-	-	-	-	-	xi
TABLE OF CASES		-	-	-	-	-	xv
SELECTION OF ACTS		-	-	-	-	-	1
APPENDIX	-	-	-	-	-	-	533
INDEX	-	-	-	-	-	-	559

INTRODUCTION.

This Compilation, prepared, under the direction of the Commissioner, for the use of the Metropolitan Police Force, contains—

1. The Acts concerning the establishment of the Metropolitan Police Force. Contents.
2. The Acts concerning the Metropolitan Police Courts.
3. Acts under which the Constables of the Metropolitan Police Force have duties to perform either expressly as Constables of that Force or otherwise.
4. Various other Acts of which it is proper or desirable that the Officers of the Metropolitan Police Force should have some knowledge.

The Acts concerning the establishment of the Police Force are arranged analytically, so that the portions of these several Acts which concern the same matter will be found together.* Arrangement.

It has not been thought expedient to attempt to deal with other Acts on this plan. They are, however, placed in different series according to their subject. Acts connected by dealing with the same subject and operating on one another, are consequently placed together, being amongst themselves arranged chronologically.

Where provisions have been repealed or amended, the repeal or amendment is noted thereon, except where this is rendered needless, as in the case of the Police Acts, by the later enactment being placed in close proximity to the enactment affected.

And where in Acts which have no express reference the one to the other, provisions occur which

* Amongst the provisions of these Acts are inserted however some provisions of other Acts, which it seemed convenient thus to notice ; such provisions are distinguished by being printed in smaller type between brackets.

relate to the same matter or case, cross references are made between them

In order to bring the Acts contained in this compilation into as small a compass as possible, and at the same time to facilitate perusal, such words as "And be it enacted, That" are omitted, the year and chapter of an Act (thus "2 & 3 Vict. c. 47.") are substituted for the fuller and more formal reference commonly used, and sums are mentioned by figures (thus "£5") instead of in words, and so in other instances where figures can be substituted.

Moreover, in many cases the language is simplified (as it has been in recent legislation) where it was thought the alteration could not affect the legal construction; and words are frequently omitted, where it was considered the omission would not impair the usefulness of the work for the purposes it is intended to answer.*

Where only such departures from the words of enactments as are above indicated have been made, the sections are printed without anything to show that they are not given verbatim.

In other cases it has been thought sufficient only to give a condensed statement or note of an enactment, often not more than is given in the marginal note; this statement or note is placed in brackets, thus [].

* The following extracts from the Act 39 & 40 Geo. 3. c. 99. s. 8. will explain what is here meant. The words in italics are omitted in this work, and the word in brackets inserted. "It shall be lawful for any justice to grant his warrant to apprehend any person so offending and if *he, she, or they shall be thereof convicted by the oath of any credible witness or witnesses, or by the confession of the person or persons charged with such offence* before any justice or justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed (which oath every such justice or justices as aforesaid is and are hereby empowered and required to administer), every such offender," &c., "the justice or justices of the peace as aforesaid before whom such conviction shall be [is] had shall commit the party or parties so convicted to the house of correction or some other public prison of the county, riding, division, city, liberty, town, or place wherein the offender or offenders shall reside or be convicted, there to remain and be kept to hard labour," &c.

Enactments are frequently divided into paragraphs where they are long and admit of division in this manner.

The marginal notes are sometimes abbreviated or otherwise altered as convenience or accuracy required.

Notes of reference to other Acts are printed in italics, except where they occur as foot notes.

Notices of reported cases are given in foot notes.

This compilation ends with the Session of 1861.

CONTENTS.

	Page
Metropolitan Police Force (analytically arranged) - - - - -	{ 10 Geo. 4. c. 44.* - 3 & 4 Will. 4. c. 89. - 2 & 3 Vict. c. 47.† - 17 & 18 Vict. c. 94. - 19 & 20 Vict. c. 2. - 20 & 21 Vict. c. 64. - 24 & 25 Vict. c. 124. - } 1
Police Courts, Metropolis - - - - -	{ 2 & 3 Vict. c. 71.† - 21 & 22 Vict. c. 73. - } 42 62
Police Courts Metropolis and Metro- politan Police Force - - - - -	{ 3 & 4 Vict. c. 84. - } 58
Employment of the Metropolitan Police in Her Majesty's Yards, &c. - - -	{ 23 & 24 Vict. c. 185. - 24 & 25 Vict. c. 51. - } 63 65
Hackney Carriages, &c., Metropolis - - -	{ 1 & 2 Will. 4. c. 22. - } 66
Stage Carriages (Great Britain) - - -	{ 2 & 3 Will. 4. c. 120. - } 82
Stage Carriages (G. B.), and Hackney Carriages, Metropolis - - - - -	{ 3 & 4 Will. 4. c. 48. - } 93
Stage Carriages (Great Britain) - - -	{ 5 & 6 Vict. c. 79. - } 94
Hackney and Stage Carriages, &c., Metropolis - - - - -	{ 6 & 7 Vict. c. 86. - 13 & 14 Vict. c. 7. - 16 & 17 Vict. c. 83. - } 98 111 112
Stage Carriages (G. B.), and Hackney Carriages, Metropolis - - - - -	{ 16 & 17 Vict. c. 88. - } 119
Hackney and Stage Carriages, Me- tropolis - - - - -	{ 16 & 17 Vict. c. 127. - } 120
Vagrants - - - - -	{ 5 Geo. 4. c. 83. - 1 & 2 Vict. c. 38. - 7 & 8 Vict. c. 101. - } 121 130 131
Sale of Obscene Books Prevention - - -	{ 20 & 21 Vict. c. 83. - } 132
Slaughtering of Cattle - - - - -	{ 26 Geo. 3. c. 71. - 7 & 8 Vict. c. 87. - } 133 136
Cruelty to Animals - - - - -	{ 12 & 13 Vict. c. 92. - 17 & 18 Vict. c. 60. - } 137 144
Houseless Poor, Relief of, in District Asylums - - - - -	{ 7 & 8 Vict. c. 101. - } 144
Theatres Regulation - - - - -	{ 6 & 7 Vict. c. 68. - } 146
Licences for Sale of Beer, &c. in Theatres - - - - -	{ 5 & 6 Will. 4. c. 39. - } 151

* In connexion with s. 41. of this Act are placed the provisions of 24 Geo. 2. c. 44. for the protection of constables from actions.

† In connexion with s. 51. of this Act are placed the provisions of the Metropolitan Market Act relating to driving cattle.

‡ In connexion with s. 27. of this Act are placed the provisions of 1 Jac. 1. c. 21. (concerning disposition of goods stolen, &c.)

	Page
Gaming Houses - - - - -	{ 8 & 9 Vict. c. 109. - 151
Betting Houses - - - - -	{ 17 & 18 Vict. c. 38. - 157
	{ 16 & 17 Vict. c. 119. - 161
	{ 39 & 40 Geo. 3. c. 94. - 165
Lunatics - - - - -	{ 1 & 2 Vict. c. 14. - 165
	{ 3 & 4 Vict. c. 54. - 166
	{ 23 & 24 Vict. c. 75. - 167
	{ 16 & 17 Vict. c. 97. - 167
Public Houses - - - - -	{ 9 Geo. 4. c. 61. - 172
	{ 5 & 6 Vict. c. 44. - 181
Beer Houses - - - - -	{ 1 Will. 4. c. 64. - 182
	{ 4 & 5 Will. 4. c. 85. - 191
	{ 3 & 4 Vict. c. 61. - 196
Sale of Liquor on Sundays, &c. -	{ 11 & 12 Vict. c. 49. - 201
	{ 18 & 19 Vict. c. 118. - 202
Sale of Wine, &c. in Boats moored or at anchor on Sundays, &c. -	{ 5 & 6 Vict. c. 44. - 203
Refreshment Houses, &c. - - -	{ 23 & 24 Vict. c. 27. - 204
Fraudulent Removal of Goods by Tenants - - - - -	{ 11 Geo. 2. c. 19. - 214
Recovery of Possession of deserted Premises - - - - -	{ 57 Geo. 3. c. 52. - 217
Recovery of Possession of Tenements -	{ 1 & 2 Vict. c. 74. - 217
	{ 39 & 40 Geo. 3. c. 99. - 221
Regulation of Pawnbrokers - - -	{ 9 & 10 Vict. c. 98. - 242
	{ 19 & 20 Vict. c. 27. - 242
Common Lodging Houses - - -	{ 14 & 15 Vict. c. 28. - 243
	{ 16 & 17 Vict. c. 41. - 247
Metropolis Local Management - -	{ 18 & 19 Vict. c. 120. - 250
Metropolitan Buildings - - -	{ 18 & 19 Vict. c. 122. - 258
Extinguishment of Fires, Metropolis -	{ 14 Geo. 3. c. 78. - 264
Nuisances Removal and Diseases Pre- vention - - - - -	{ 18 & 19 Vict. c. 121. - 264
	{ 23 & 24 Vict. c. 77. - 270
Smoke Nuisance, &c., Abatement, Me- tropolis - - - - -	{ 16 & 17 Vict. c. 128. - 272
	{ 19 & 20 Vict. c. 107. - 275
Offences in relation to Highways -	{ 5 & 6 Will. 4. c. 50. - 275
	{ 3 Geo. 4. c. 126. - 284
Offences in relation to Turnpike Roads -	{ 4 Geo. 4. c. 95. - 290
	{ 7 & 8 Geo. 4. c. 24. - 293
	{ 9 Geo. 4. c. 77. - 293
Regulation of Locomotives on Turnpike and other Roads - - - - -	{ 24 & 25 Vict. c. 70. - 294
Carriage of Passengers by Sea - -	{ 18 & 19 Vict. c. 119. - 296
	{ 17 & 18 Vict. c. 104. - 308
Merchant Shipping - - - - -	{ 17 & 18 Vict. c. 120. - 321
	{ 18 & 19 Vict. c. 91. - 322
Regulation of Dealers in Old Metals -	{ 24 & 25 Vict. c. 110. - 328
Protection of Women deserted by their Husbands - - - - -	{ 20 & 21 Vict. c. 85. - 329
	{ 21 & 22 Vict. c. 108. - 330

		Page
Prevention of Persons going armed by	{ 9 Geo. 4. c. 69.	- 331
Night for Destruction of Game	- { 7 & 8 Vict. c. 29.	- 334
Prevention of Offences	- 14 & 15 Vict. c. 19.	- 334
Protection of Apprentices and Servants	14 & 15 Vict. c. 11.	- 335
Protection of Public Statues, Metropolis	17 & 18 Vict. c. 33.	- 336
Obliterating Crossing of Cheques	- 21 & 22 Vict. c. 79.	- 337
Administration of Criminal Justice	- {	
Provisions as to Costs, Rewards for	7 Geo. 4. c. 64.	- 337
Apprehension, &c.	- }	
Costs of Prosecution for concealing Birth	{ 1 Vict. c. 44.	- 340
of Children	- }	
Expenses of Prosecution and Appre-	{ 14 & 15 Vict. c. 55.	- 341
hension of Offenders	- }	
Backing of English Warrants in Scot-	{ 11 & 12 Vict. c. 42.	- 343
land, Ireland, and the Channel Islands,	11 & 12 Vict. c. 43.	- 347
and vice versâ	- }	
Execution of Irish Warrants in England,	{ 14 & 15 Vict. c. 93.	- 347
and vice versâ	- }	
Apprehension of Offenders escaping to	{ 6 & 7 Vict. c. 34.	- 352
or from Colonies	- }	
	{ 6 & 7 Vict. c. 75.	
	(France).	- 356
Apprehension of Offenders under Con-	{ 6 & 7 Vict. c. 76.	
vention, &c. with France and United	(United States).	- 359
States	- { 8 & 9 Vict. c. 120.	
	(France and United	
	States).	- 362
Apprehension of Seamen deserting from	{ 15 & 16 Vict. c. 26.	- 363
Foreign Ships	- }	
Juvenile Offenders, Summary Juris-	{ 10 & 11 Vict. c. 82.	- 364
diction in Larceny	- { 13 & 14 Vict. c. 37.	- 366
	17 & 18 Vict. c. 86.	- 367
Youthful Offenders, Care and Reforma-	{ 18 & 19 Vict. c. 87.	- 368
tion	- { 19 & 20 Vict. c. 109.	- 369
	20 & 21 Vict. c. 55.	- 370
Industrial Schools (and Care of Desti-	{ 24 & 25 Vict. c. 113.	- 372
tute Children)	- }	
Administration of Criminal Justice,	{ 16 & 17 Vict. c. 30.	- 378
diminishing Expense and Delay	- { 18 & 19 Vict. c. 126.	- 379
Gunpowder, &c., Keeping and Manu-	{ 23 & 24 Vict. c. 139.	- 383
facture	- { 24 & 25 Vict. c. 130.	- 394
Cutting adrift Customs Boats	- 19 & 20 Vict. c. 75.	- 394
Sale of Arsenic Regulation	- 14 & 15 Vict. c. 13.	- 394
	{ 15 & 16 Vict. c. 50.	- 396
Offences concerning the Militia	- { 17 & 18 Vict. c. 105.	- 397
	22 & 23 Vict. c. 38.	- 399
	23 & 24 Vict. c. 94.	- 399
Offences concerning the Navy	- { 10 & 11 Vict. c. 62.	- 400
	16 & 17 Vict. c. 69.	- 401

	Page
Offences concerning Naval Coast Volunteers	16 & 17 Vict. c. 73. - 402
Medical Practitioners Regulation	21 & 22 Vict. c. 90. - 403
Lastage and Ballastage, River Thames	6 & 7 Vict. c. lvii. - 405
Summary Proceedings before Justices	20 & 21 Vict. c. 43. - 406
Vexatious Indictments Prevention	22 & 23 Vict. c. 17. - 407
Administration of Criminal Justice Improvement	14 & 15 Vict. c. 100. - 408
Administration of Criminal Justice, Middlesex	22 & 23 Vict. c. 4. - 410
Transportation, Substitution of other Punishment for	16 & 17 Vict. c. 99. - 410 20 & 21 Vict. c. 3. - 412
As to double Costs, Notices of Action, &c.	5 & 6 Vict. c. 97. - 413
Statute Law Consolidation. Repeal of Acts	24 & 25 Vict. c. 95. - 414
Larceny and other similar Offences. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 96. - 414
Malicious Injuries to Property. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 97. - 454
Indictable Offences by Forgery. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 98. - 475
Offences relating to the Coin. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 99. - 498
Offences against the Person. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 100. - 511
Accessories to and Abettors of Indictable Offences. (Consolidation and Amendment of Statute Law)	24 & 25 Vict. c. 94. - 530

CHRONOLOGICAL LIST.

Year and Chap.	Subject.	Page
1 Jac. 1. c. 21.	- Disposition of Goods stolen, &c.	47 note †
11 Geo. 2. c. 19.	- { Fraudulent Removal of Goods by Tenants. Recovery of Possession of deserted Premises	214
24 Geo. 2. c. 44.	- Protection of Constables from Actions	40
14 Geo. 3. c. 78.	- Extinguishment of Fires, Metropolis	264
26 Geo. 3. c. 71.	- Slaughtering of Cattle	133
39 & 40 Geo. 3. c. 94.	- Lunatics	165
39 & 40 Geo. 3. c. 99.	- Regulation of Pawnbrokers	221
57 Geo. 3. c. 52.	- { Recovery of Possession of deserted Premises	217
3 Geo. 4. c. 126.	- { Offences in relation to Turnpike Roads	284
4 Geo. 4. c. 95.	- {	290
5 Geo. 4. c. 83.	- Vagrants	121
7 Geo. 4. c. 64.	- { Administration of Criminal Justice :— Provisions as to Costs, Rewards for Apprehension, &c.	337
7 & 8 Geo. 4. c. 24.	- Offences in relation to Turnpike Roads	293
9 Geo. 4. c. 61.	- Public Houses	172
9 Geo. 4. c. 69.	- { Prevention of Persons going armed by Night for Destruction of Game	331
9 Geo. 4. c. 77.	- Offences in relation to Turnpike Roads	293
10 Geo. 4. c. 44.	- Metropolitan Police Force	1
1 Will 4. c. 64.	- Beer Houses	182
1 & 2 Will. 4. c. 22.	- Hackney Carriages, &c., Metropolis	66
2 & 3 Will. 4. c. 120.	- Stage Carriages (Great Britain)	82
3 & 4 Will. 4. c. 48.	- Stage and Hackney Carriages	93
3 & 4 Will. 4. c. 89.	- Metropolitan Police Force	1
4 & 5 Will. 4. c. 85.	- Beer Houses	191
5 & 6 Will. 4. c. 39.	- { Licences for Sale of Beer, &c. in Theatres	151
5 & 6 Will. 4. c. 50.	- Offences in relation to Highways	275
1 Vict. c. 44.	- { Costs of Prosecution for concealing Birth of Children	340
1 & 2 Vict. c. 14	- Lunatics	165
1 & 2 Vict. c. 38.	- Vagrants	130
1 & 2 Vict. c. 74.	- Recovery of Possession of Tenements	217
2 & 3 Vict. c. 47.	- Metropolitan Police Force	1
2 & 3 Vict. c. 71.	- Police Courts, Metropolis	42
3 & 4 Vict. c. 54.	- Lunatics	166
3 & 4 Vict. c. 61.	- Beer Houses	196
3 & 4 Vict. c. 84.	- Police and Police Courts	58

Year and Chap.	Subject.	Page
	Public Houses - - -	181
5 & 6 Vict. c. 44.	{ Sale of Wine, &c. in Boats moored or at anchor on Sundays, &c., - -	203
5 & 6 Vict. c. 79.	- Stage Carriages (Great Britain) - -	94
5 & 6 Vict. c. 97.	- { As to double Costs, Notices of Action, &c. - - -	413
6 & 7 Vict. c. lvii.	- Lastage and Ballastage, River Thames	405
6 & 7 Vict. c. 34.	- { Apprehension of Offenders escaping to or from Colonies - - -	352
6 & 7 Vict. c. 68.	- Theatres Regulation - - -	146
6 & 7 Vict. c. 75.	- { Apprehension of Offenders under Con- vention &c., with France - -	356
6 & 7 Vict. c. 76.	- { Apprehension of Offenders under Treaty with United States - - -	359
6 & 7 Vict. c. 86.	- { Hackney and Stage Carriages, &c., Me- tropolis - - -	98
7 & 8 Vict. c. 29.	- { Prevention of Persons going armed by Night for Destruction of Game -	334
7 & 8 Vict. c. 87.	- Slaughtering of Cattle - - -	136
	- Vagrants - - -	131
7 & 8 Vict. c. 101.	- { Houseless Poor, Relief of, in District Asylums - - -	144
8 & 9 Vict. c. 109.	- Gaming Houses - - -	151
8 & 9 Vict. c. 120.	- { Apprehension of Offenders under Treaties with France and United States -	362
9 & 10 Vict. c. 98.	- Regulation of Pawnbrokers - - -	242
10 & 11 Vict. c. 62.	- Navy Offences - - -	400
10 & 11 Vict. c. 82.	- { Juvenile Offenders, Summary Jurisdic- tion in Larceny - - -	364
11 & 12 Vict. c. 42.	- { Backing of English Warrants in Scot- land, Ireland, and the Channel } 343	
11 & 12 Vict. c. 43.	- { Islands, and vice versâ - - - } 347	
11 & 12 Vict. c. 49.	- Sale of Liquor on Sundays, &c. - -	201
12 & 13 Vict. c. 92.	- Cruelty to Animals - - -	137
13 & 14 Vict. c. 7.	- { Hackney and Stage Carriages, Metro- polis - - -	111
13 & 14 Vict. c. 37.	- { Juvenile Offenders, Summary Jurisdic- tion in Larceny - - -	366
14 & 15 Vict. c. 11.	- Protection of Apprentices and Servants	335
14 & 15 Vict. c. 13.	- Sale of Arsenic Regulation - - -	394
14 & 15 Vict. c. 19.	- Prevention of Offences - - -	334
14 & 15 Vict. c. 28.	- Common Lodging Houses - - -	243
14 & 15 Vict. c. 55.	- { Expenses of Prosecution, and Apprehen- sion of Offenders - - -	341
14 & 15 Vict. c. 93.	- { Execution of Irish Warrants in England, and vice versâ - - -	347
14 & 15 Vict. c. 100.	- Administration of Criminal Justice Im- provement - - -	408
15 & 16 Vict. c. 26.	- Apprehension of Seamen deserting from Foreign Ships - - -	363
15 & 16 Vict. c. 50.	- Militia Offences - - -	396

Year and Chap.	Subject.	Page
16 & 17 Vict. c. 30.	{ Administration of Criminal Justice, diminishing Expense and Delay	378
16 & 17 Vict. c. 33.	{ Hackney and Stage Carriages, &c., Me- tropolis	112
16 & 17 Vict. c. 41.	- Common Lodging Houses	247
16 & 17 Vict. c. 69.	- Navy Offences	401
16 & 17 Vict. c. 73.	- Naval Coast Volunteers	402
16 & 17 Vict. c. 88.	- Stage and Hackney Carriages	119
16 & 17 Vict. c. 97.	- Lunatics	167
16 & 17 Vict. c. 99.	{ Transportation, Substitution of other Punishment for	410
16 & 17 Vict. c. 119.	- Betting Houses	161
16 & 17 Vict. c. 127.	{ Hackney and Stage Carriages, Metro- polis	120
16 & 17 Vict. c. 128.	{ Smoke Nuisance, &c. Abatement, Me- tropolis	272
17 & 18 Vict. c. 33.	- Protection of Public Statues, Metropolis	336
17 & 18 Vict. c. 38.	- Gaming Houses	157
17 & 18 Vict. c. 60.	- Cruelty to Animals	144
17 & 18 Vict. c. 86.	{ Youthful Offenders, Care and Reforma- tion	367
17 & 18 Vict. c. 94.	- Metropolitan Police Force	1
17 & 18 Vict. c. 104.	- Merchant Shipping	308
17 & 18 Vict. c. 105.	- Militia Offences	397
17 & 18 Vict. c. 120.	- Merchant Shipping	321
18 & 19 Vict. c. 87.	{ Youthful Offenders, Care and Reforma- tion	368
18 & 19 Vict. c. 91.	- Merchant Shipping	322
18 & 19 Vict. c. 118.	- Sale of Liquor on Sundays, &c.	202
18 & 19 Vict. c. 119.	- Carriage of Passengers by Sea	296
18 & 19 Vict. c. 120.	- Metropolis Local Management	250
18 & 19 Vict. c. 121.	{ Nuisances Removal and Diseases Pre- vention	264
18 & 19 Vict. c. 122.	- Metropolitan Buildings	258
18 & 19 Vict. c. 126.	{ Administration of Criminal Justice, diminishing Expense and Delay	379
19 & 20 Vict. c. 2.	- Metropolitan Police Force	1
19 & 20 Vict. c. 27.	- Regulation of Pawnbrokers	242
19 & 20 Vict. c. 75.	- Cutting adrift Customs Boats	394
19 & 20 Vict. c. 107.	{ Smoke Nuisance, &c. Abatement, Metro- polis	275
19 & 20 Vict. c. 109.	{ Youthful Offenders, Care and Reforma- tion	369
20 & 21 Vict. c. 3.	{ Transportation, Substitution of other Punishment for	412
20 & 21 Vict. c. 43.	- Summary Proceedings before Justices	406
20 & 21 Vict. c. 55.	{ Youthful Offenders, Care and Reforma- tion	370
20 & 21 Vict. c. 64.	- Metropolitan Police Force	1
20 & 21 Vict. c. 83.	- Sale of obscene Books Prevention	132
20 & 21 Vict. c. 85.	{ Protection of Women deserted by their Husbands	329

Year and Chap.	Subject.	Page
20 & 21 Vict. cxxxv.	Driving of Cattle - - -	24
21 & 22 Vict. c. 73.	Police Courts - - -	62
21 & 22 Vict. c. 79.	Obliterating Crossing of Cheques -	337
21 & 22 Vict. c. 90.	Medical Practitioners Regulation -	403
21 & 22 Vict. c. 108.	{ Protection of Women deserted by their Husbands - - -	330
22 & 23 Vict. c. 4.	{ Administration of Criminal Justice, Middlesex - - -	410
22 & 23 Vict. c. 17.	Vexatious Indictments Prevention -	407
22 & 23 Vict. c. 38.	Militia Offences - - -	399
23 & 24 Vict. c. 27.	Refreshment Houses, &c. - - -	204
23 & 24 Vict. c. 75.	Lunatics - - -	167
23 & 24 Vict. c. 77.	{ Nuisances Removal and Diseases Pre- vention - - -	270
23 & 24 Vict. c. 94.	Militia Offences - - -	399
23 & 24 Vict. c. 135.	{ Employment of the Metropolitan Police in Her Majesty's Yards - - -	63
23 & 24 Vict. c. 139.	{ Gunpowder, &c., Keeping and Manufac- ture - - -	383
24 & 25 Vict. c. 51.	{ Employment of Metropolitan Police in Her Majesty's Yards - - -	65
24 & 25 Vict. c. 70.	{ Regulation of Locomotives on Turnpike and other Roads - - -	294
24 & 25 Vict. c. 94.	{ Accessories to and Abettors of Indict- able Offences - - -	530
24 & 25 Vict. c. 95.	{ Statute Law Consolidation. Repeal of Acts - - -	414
24 & 25 Vict. c. 96.	Larceny and other similar Offences -	414
24 & 25 Vict. c. 97.	Malicious Injuries to Property -	454
24 & 25 Vict. c. 98.	Indictable Offences by Forgery -	475
24 & 25 Vict. c. 99.	Offences relating to the Coin - - -	498
24 & 25 Vict. c. 100.	Offences against the Person - - -	511
24 & 25 Vict. c. 110.	{ Regulation of the Business of Dealers in Old Metals - - -	323
24 & 25 Vict. c. 113.	{ Industrial Schools (and Care of destitute Children) - - -	372
24 & 25 Vict. c. 124.	Metropolitan Police Force - - -	1
24 & 25 Vict. c. 130.	{ Gunpowder, &c., Keeping and Manufac- ture - - -	394

TABLE OF CASES.

	Page		Page
Ashcroft v. Bourne	- 216	Oberton v. Hunter	- 202
Atkinson v. Sellers	- 202	Patten v. Rhymer	- 181
Att.-Gen. v. Lockwood	- 185	Pennell v. Attenborough	- 221
Barnett v. Cox	- { 40	Rand v. Vaughan	- 215
Bowditch v. Balchin	- 34	Read v. Storey	- 198
" v. Fosberry	- 35	Rees v. Davies	- 218
Breese v. Jerdein	- 39	Reg. v. Brown	- 124
Chamberlaine Exp.	- 153	Reg. v. Goodburn	- 221
Clark v. Hague	- 138	Reg. v. Irving	- 289
Creak v. Just of Brighton	- 216	Reg. v. Lancashire	- 180
Davis v. Douglas	- 147	Reg. v. Maude	- 123
Edwards v. Hodges	- 60	Reg. v. Morgan	- 240
Fergusson v. Norman	- 225	Reg. v. Whiteley	- 181
Fitch v. Rochfort	- 221	Rex v. Beard	- 221
Hardy v. Ryle	- 39	Rex v. Flintan	- 122
Harris v. Jenns	- 201	Rex v. Howarth	- 125
Hayes v. Stephenson	- 123	Rich v. Woolley	- 216
Hazeldine v. Grove	- 40	Rogers v. Macnamara	- 104
Heath v. Heape	- 123	Ross v. Hill	- 114
Hughes v. Buckland	- 39	Sewell v. Taylor	- 124
Hurrell v. Ellis	- 104	Taylor v. Humphreys	- 203
Jones, in re	- 124	Tott v. Selfe	- 192
Jones v. Owen	- 283	Walker v. Evans	- 275
Labalmondiere v. Addison	- 259	Walter v. Smith	- 234
Moore v. Shepherd	- 414	Wray v. Ellis	- 160
Morgan v. Leach	- 278	Young v. Higgon	- { 40
Mourilyan v. Labalmondiere	258		413

SELECTION OF ACTS

FOR THE USE OF

THE METROPOLITAN POLICE.

METROPOLITAN POLICE FORCE.

Appointment, &c. of Commissioner and Assistant Commissioners of Police.

10 Geo. 4. c. 44. s. 1. [A new Police Office to be established in Westminster, and two persons to be appointed by sign manual Justices of Middlesex, Surrey, Hertfordshire, Essex, and Kent, and of all liberties therein, to execute the duties of a justice at such office, and in all parts of such counties and liberties, and such other duties as are hereinafter specified or shall be directed by the Secretary of State, for the more efficient administration of the police within the limits herein-after mentioned; power to Crown to remove any Justice and supply vacancy; qualification by estate unnecessary; no Justice to act at general and quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying out the purposes of this act.]

Establishment of a new Police Office for the Metropolis and the surrounding district, and appointment of two persons as Justices under the directions of Secretary of State.*

10 Geo. 4. c. 44. s. 2. [Oath to be taken by such Justices.]

Oath.

10 Geo. 4. c. 44. s. 18. [Justice not to be capable of sitting in House of Commons, and not to vote or interfere in parliamentary elections for Middlesex, Surrey, Hertfordshire, Essex, or Kent, or any city or borough in the Metropolitan Police District, under a penalty of £100.]

Disqualifications.

See also 23 & 24 Vict. c. 135. s. 5. post, p. 64.

2 & 3 Vict. c. 47. s. 4. [The Justices under 10 Geo. 4. c. 44. to be Justices for Berkshire and Buckinghamshire, although not qualified by estate; such Justices to act in such counties as fully as in any other part of the Metro-

Justices to act in Berks and Bucks.

* By 23 & 24 Vict. c. 135., post, p. 63. provision is made for the employment of the Metropolitan Police as constables in Her Majesty's Yards and military stations.

Style. metropolitan Police District, and to be styled "The Commissioners of Police of the Metropolis."]*

One Commissioner of Police only. 19 & 20 Vict. c. 2. s. 1. [To be but one Commissioner of Police under 10 Geo. 4. c. 44. and 2 & 3 Vict. c. 47., and Commissioner to be styled "The Commissioner of Police of the Metropolis;" existing provisions concerning removal and appointment to be applicable.]

Appointment of two Assistant Commissioners of Police. 19 & 20 Vict. c. 2. s. 2. [Two persons to be appointed by sign manual to be during Her Majesty's pleasure Assistant Commissioners of Police of the Metropolis; supply of vacancies in such offices; every Assistant Commissioner to be a justice of Middlesex, Surrey, Hertfordshire, Essex, Kent, Berkshire, and Buckinghamshire, and of all liberties therein; qualification by estate unnecessary; Assistant Commissioner not to act at general or quarter sessions, or in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detention† and committal of offenders, and in carrying out the purposes of this act and 10 Geo. 4. c. 44. and 2 & 3 Vict. c. 47.]

† Sic.

Duties of sole Commissioner. 19 & 20 Vict. c. 2. s. 5. [Duties and powers of the Commissioners of Police to be performed and exercised by the sole Commissioner; and all enactments having reference to the Commissioners of Police to be applicable to the said Commissioner, save where otherwise provided by this act.]

Duties of Assistant Commissioners. 19 & 20 Vict. c. 2. s. 6. [Assistant Commissioners, under the superintendence and control of the Commissioner, to do and perform such acts and duties in execution of the acts relating to the Police as may be from time to time directed by orders and regulations made by the Commissioner, with approbation of Secretary of State.]

Matters now required to be done by one Commissioner may be done either by the Commissioner or an Assistant, as Secretary of State may direct. 19 & 20 Vict. c. 2. s. 7. [Where by any act of Parliament the provisions of such act are required or authorized to be executed or any things to be done by one of the Commissioners of Police of the Metropolis appointed in that behalf by Secretary of State, such provisions and things to be executed and done by the Commissioner or one of the Assistant Commissioners nominated by Secretary of State in this behalf, as Secretary of State shall direct.]

* 2 & 3 Vict. c. 71. (the Police Courts Act,) s. 15. requires the Police Magistrates to hold a meeting once a quarter, to which meeting the Commissioners of Police are required to furnish a report of any matters relating to the execution of that act, or to the Police, which they may be desirous of bringing under the notice of the Magistrates; and such report is to be considered by the Magistrates.

19 & 20 Vict. c. 2. s. 8. [During vacancy in office of Commissioner, or during his illness or absence, such one of the Assistant Commissioners as may be authorized by Secretary of State for this purpose may do all such acts as it would be competent for the Commissioner to do.] Assistant Commissioner may act for Commissioner in case of vacancy, illness, or absence.

19 & 20 Vict. c. 2. s. 9. [Provisions as to Commissioners of Police sitting in Parliament, &c. to apply to Assistant Commissioners.] Disqualifications.

Salaries, &c. of Commissioner and Assistant Commissioners.

19 & 20 Vict. c. 2. s. 3. [Salaries of Commissioner and Assistant Commissioners.] Salaries.

2 & 3 Vict. c. 47. s. 19. [No office in the Metropolitan Police Force to prevent the holder from receiving half-pay.] Half-pay.

2 & 3 Vict. c. 47. s. 21. [Commissioners, Surgeon, Receiver, and clerks to be within the Civil Service Superannuation Act, 4 & 5 Will. 4. c. 24., and clerks and officers appointed in 1829 to be deemed to have been appointed before 4th August in that year.] Superannuation.

4 & 5 Will. 4. c. 24. is amended by 20 & 21 Vict. c. 37. and 22 Vict. c. 26.

19 & 20 Vict. c. 2. s. 4. [Assistant Commissioners to be within 4 & 5 Will. 4. c. 24.]

See note on last preceding paragraph.

Metropolitan Police District.

10 Geo. 4. c. 44. s. 4. [Westminster, and parts of Middlesex, Surrey, and Kent mentioned in Schedule, to form "The Metropolitan Police District."] Metropolitan Police District.

10 Geo. 4. c. 44. s. 34. [Parishes, &c. in Middlesex, Surrey, Hertfordshire, Essex, and Kent, of which any part is within 12 miles of Charing Cross, may be added by Order in Council to Metropolitan Police District.] Addition by Order in Council

2 & 3 Vict. c. 47. s. 2. [Any part of the Central Criminal Court District (except the city of London and its liberties

and places included in the City Police Act, 2 & 3 Vict. c. xciv.*), and of any parish or place which is not more than 15 miles from Charing Cross in a straight line may by Order in Council be added to Metropolitan Police District.] †

For the limits of the Metropolitan Police District, see Appendix (A.)

Establishment of Police Force.

A Police Force to be appointed, and Policemen to have all the powers of constables.

10 Geo. 4. c. 44. s. 4. A sufficient number of fit and able men shall from time to time, by the directions of the Secretary of State, be appointed as a Police Force for the whole of such district, who shall be sworn in by one of the said Justices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace, and the men so sworn shall not only within the said district, but also within the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and within all liberties therein, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constablewick by virtue of the common law of this realm or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said Justices for conducting themselves in the execution of their office. ‡

Metropolitan Police constables to act on the River Thames, &c.

2 & 3 Vict. c. 47. s. 5. The constables of the Metropolitan Police Force shall have all the powers and privileges of a constable in Berkshire and Buckinghamshire, and upon the Thames within or adjoining to Middlesex, Surrey, Berkshire, Essex, and Kent, and within or adjoining to the city of London and liberties thereof, and in and on the several creeks, inlets, and waters, docks, wharfs, quays,

* The only places included in the City Police Act are the city of London and the liberties thereof.

† By 7 & 8 Vict. c. 60. "For the Care and Preservation of Trafalgar Square," s. 3., the provisions of 10 Geo. 4. c. 44. and 2 & 3 Vict. c. 47. are to extend to Trafalgar Square and the works therein.

‡ By 2 & 3 Vict. c. xciv. s. 24. Secretary of State may, in any case of special emergency, at the request of the Lord Mayor, authorize constables of the Metropolitan Police Force to act within the city of London and its liberties, and in such case such constables are to be under the command of their own officers, and Lord Mayor may, at the request of Secretary of State, in the like case authorize constables of the City Police Force to act in the Metropolitan Police District under their own officers.

and landing places thereto adjacent, and shall act therein and thereupon as fully as in any part of the Metropolitan Police District.

2 & 3 Vict. c. 47. s. 7. The Commissioners may administer to any constable of the Metropolitan Police Force an oath to execute the office of constable within the royal palaces of Her Majesty, and 10 miles thereof; and every constable so sworn shall have the powers and privileges of a constable within the said royal palaces and 10 miles thereof.

Constables may be sworn to act for the palaces.

[By 2 & 3 Vict. c. 71. s. 17., *post*, p. 44, certain warrants issued by metropolitan police magistrates in respect of matters arising within the Metropolitan Police District may be served or executed out of such district by the constables to whom the same are directed without endorsement.]

2 & 3 Vict. c. 47. s. 8. The Commissioners, if they think fit, on application, showing the necessity thereof, may appoint and swear any additional number of constables to keep the peace at any place within the Metropolitan Police District, at the charge of the applicant, but subject to the orders of the Commissioners, and for such time as they think fit; and every such constable shall have all the powers, privileges, and duties of other constables of the Metropolitan Police Force. Such applicant may, upon giving one calendar month's notice in writing to the Commissioners, require the constables so appointed to be discontinued, and thereupon the Commissioners shall discontinue them; [monies received for such additional constables to be paid to the Receiver.]

Additional constables may be appointed at the cost of individuals.

Government of Police Force.

10 Geo. 4. c. 44. s. 5. The said Justices may from time to time, subject to the approbation of the Secretary of State, frame such orders and regulations as they deem expedient, relative to the general government of the men to be appointed members of the Police Force under this act; the places of their residence; the classification, rank, and particular service of the several members; their distribution and inspection; the description of arms, accoutrements, and other necessities to be furnished to them; and which of them shall be provided with horses for the performance of their duty; and all such other orders and regulations relative to the said Police Force as the said

The Justices, subject to the approbation of Secretary of State, may make regulations for the management of the Police Force.

Constables
may be sus-
pended or
dismissed by
the Justices.

Justices from time to time deem expedient for preventing neglect or abuse, and for rendering such Force efficient in the discharge of all its duties; and the said Justices may at any time suspend or dismiss from his employment any man belonging to the said Police Force whom they think remiss or negligent in the discharge of his duty, or otherwise unfit for the same; and when any man is so dismissed or ceases to belong to the said Police Force, all powers vested in him as a constable by virtue of this act shall immediately cease and determine.

[For penalties on constables, for neglect of duty, for withdrawing from the duties of office without leave or a month's notice, and for not delivering up accoutrements on quitting office. see 2 & 3 Vict. c. 47. ss. 14, 15, 16., *post*, pp. 13, 14.]

Policemen not
to vote at cer-
tain elections.

10 Geo. 4. c. 44. s. 18. [Policemen not to vote or interfere in parliamentary elections for Middlesex, Surrey, Hertfordshire, Essex, or Kent, or any city or borough in the Metropolitan Police District, under a penalty of £100.]

See also 23 & 24 Vict. c. 135. s. 5. post, p. 64.

Statement to
be laid before
Parliament.

2 & 3 Vict. c. 47. s. 9. [A statement of the number of persons belonging to the Police Force, distinguishing the number in each class or rank, with their salaries and allowances, to be annually laid before Parliament.]

For the total number of persons belonging to the Metropolitan Police Force on the 1st day of January 1861, and the number in each class or rank, and their pay and allowances, see Appendix (B.)

Superannuation of Constables.

Superannua-
tion fund to be
provided for
constables.

2 & 3 Vict. c. 47. s. 22. There shall be deducted from the pay of every constable of the Metropolitan Police Force a sum after such yearly rate as the Secretary of State may direct, not greater than £2 10. per cent., which sum, and the monies accruing from stoppages from any of the said constables during sickness, and fines imposed upon any of them for misconduct, and any portion of the fines imposed by any magistrate upon drunken persons, or for assaults upon police constables, directed to be paid to the Receiver for the benefit of this fund, and all monies arising from the sale of worn or cast clothing supplied for the use of the Police, shall be invested in Government Stock in the name of the Receiver, and the dividends

thereof or so much of the same as is not required for the purposes herein-after mentioned, shall be likewise invested and accumulate, so as to form a fund to be called "The Police Superannuation Fund," and shall be applied from time to time for payment of such superannuation or retiring allowances or gratuities as may be ordered by the Secretary of State at any time to any of the said constables, as herein-after provided.

See also 2 & 3 Vict. c. 71. s. 46., post, p. 56.

[As to superannuation of persons formerly belonging to the Horse and Foot Patrol and Thames Police, see 2 & 3 Vict. c. 47. s. 6. and 3 & 4 Vict. c. 84. s. 14., *post, pp. 11, 12.* And as to superannuation of persons formerly acting as police in Her Majesty's Yards and Military Stations who joined the Metropolitan Police Force, and the exemption of such persons from deduction from their pay under 2 & 3 Vict. c. 47. s. 22., see 24 & 25 Vict. c. 51. ss. 1, 2, *post, p. 65.*]

[By 2 & 3 Vict. c. 71. s. 30., *post, p. 49,* goods or money charged to have been stolen or unlawfully obtained, and of which the owner is unknown, may be ordered by magistrate to be delivered to Receiver, and unless claimed within 12 months, Receiver at the expiration of that time to dispose of same for benefit of superannuation fund.]

2 & 3 Vict. c. 47. s. 23. [Secretary of State may order any of the said constables to be superannuated, and receive out of the police superannuation fund a yearly allowance; subject to the following conditions, and not exceeding the following proportions; that is to say, if he have served with diligence and fidelity for 15 and less than 20 years, an annual sum not exceeding half his pay; if for 20 years or upwards, an annual sum not exceeding two thirds of his pay: Provided that if he be under 60 years of age such allowance shall not be granted unless upon the certificate of the Commissioners of Police that he is incapacitated by infirmity: Provided also, that if any constable be disabled by any injury received in actual execution of his duty an allowance not exceeding the whole of his pay may be granted: But nothing herein to be construed to entitle any constable absolutely to any superannuation allowance, or to prevent his being dismissed without superannuation allowance.] Rates of allowance from the said fund.

20 & 21 Vict. c. 64. s. 15. [In case the police superannuation fund provided by 2 & 3 Vict. c. 47. be at any time insufficient for payment of the superannuation or retiring allowances ordered to be paid thereout, the Secretary of State to direct payment by the Receiver Provision for the case of deficiency in superannuation fund.

out of any monies applicable towards defraying the charge of the Metropolitan Police of what may be necessary to make good the deficiency.]

Power to grant pensions and compassionate allowances to widows and children of constables killed in the execution of their duty.

24 & 25 Vict. c. 124. s. 6. One of Her Majesty's Principal Secretaries of State may from time to time grant such pensions as he thinks just to the widows of metropolitan police constables who have been killed or have died from the effect of injuries received in the execution of their duty, and may likewise make grants by way of compassionate allowances to the children of any such constables, and any grant so made shall be payable out of any monies for the time being in the hands of the Receiver; but any grants made in pursuance of this section of pensions or compassionate allowances shall not exceed the amount which the Lords of the Admiralty are for the time being empowered to pay to the widows and children of Coast Guard officers who may have been killed or have died from the effect of injuries received in the execution of their duty.

Receiver of Metropolitan Police District.

Appointment of Receiver.

10 Geo. 4. c. 44. ss. 10. to 18. [These sections provide for the appointment by Her Majesty of a person to receive all money applicable for the purposes of this act, to be called "The Receiver of the Metropolitan Police District," who is to pay all money so received into the Bank of England, and draw it out when required for payments. He is to pay to the persons belonging to the Police Force such salaries, wages, and allowances, and at such periods, as the Secretary of State may direct, and also extraordinary expenses necessarily incurred in apprehending offenders, and executing the orders of the Justices appointed under this act, such expenses being first examined and approved by one of such Justices. He is also to pay any further sums which the Secretary of State may direct to be paid to any of the Police Force as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in performance of their duty, or as an allowance to such of them as may be disabled by bodily injury, or be worn out by length of service, and all other charges and expenses which the Secretary of State may direct for carrying this act into execution.

Duties.

Salary.

The above sections also provide for the salary of the Receiver (as to which see also 2 & 3 Vict. c. 71. ss. 9, 11.),

the auditing of his accounts, the transfer and recovery of Accounts, &c.
balances on death, resignation, or removal, and for his
making all contracts, &c. necessary for acquiring land or Contracts.
providing buildings for the purposes of this act, and give
powers to parties under disability, to contract and convey,
&c.

The Receiver is not to sit in Parliament, and is not Disqualifica-
to vote or interfere in elections for Middlesex, Surrey, tion.
Hertfordshire, Essex, or Kent, or any city or borough in
the Metropolitan Police District, under a penalty of
£100].

24 & 25 Vict. c. 124. ss. 1-5, 7, 8. [These sections provide ; Corporation
1. That the Receiver shall be a corporation sole ; 2. That all sole.
property vested in the late or present Receiver shall vest Vesting of pro-
in the present Receiver and his successors by his official perty.
name ; 3. That the Receiver shall not be personally liable Non-liability.
for debts, &c. incurred officially, but that they shall be
satisfied out of the monies received by him officially ;
4. That in the official account kept at the Bank of England Official
the name of the Receiver for the time being shall not be account.
entered ; 5. That by direction of the Secretary of State Disposition
the Receiver may dispose of property vested in him, or and acquisi-
acquire property for the purposes of his office ; and, lastly, tion of pro-
That all sums accruing payable to the Receiver, shall be perty.
paid into the Bank of England to the account of the Payment into
Receiver.] the bank.

[As to superannuation of Receiver, see 2 & 3 Vict. c. 47. s. 21.,
ante, p. 3.]

[By 2 & 3 Vict. c. 71. ss. 7, 8. the Receiver of the Metropo-
litan Police District is made Receiver of the Metropolitan police
courts.]

10 Geo. 4. c. 44. ss. 19. to 21. [These sections determine Determination
the existing nightwatch in parishes in the Metropolitan of nightwatch.
Police District, and contain provisions consequent on such
determination not necessary to be here noticed.]

Station Houses.

10 Geo. 4. c. 44. s. 22. [The Justices appointed under Watch boxes.
this act, subject to the approbation of the Secretary of
State, may order watchboxes to be placed in such parts of the

highways in the Metropolitan Police District as they deem convenient.]

Stations. 20 & 21 Vict. c. 64. [Power to raise £60,000 on mortgage of the Police rates for the purpose of building and improving stations.]

Expenses of Police. Police Rates.

Police rates. 10 Geo. 4. c. 44. ss. 23. to 26. [Provisions for paying to the Receiver out of the poor rates or by means of rates to be levied in like manner the sums from time to time required by warrant of the said Justices, with the approbation of the Secretary of State, such sums not to exceed in any year 8*d.* in the pound on the value of the property rateable.]

See as to the rateable value, 20 & 21 Vict. c. 64. s. 11., and as to contribution to the expense of the Police out of moneys voted by Parliament, 3 & 4 Will. 4. c. 89., 2 & 3 Vict. c. 47. ss. 3. 6., and 20 & 21 Vict. c. 64. s. 10., post, pp. 11, 12.

Payment into the bank. 24 & 25 Vict. c. 124. s. 7. [Repeal of so much of s. 25. of 10 Geo. 4. c. 44. as concerns payment to the Receiver by overseers of the amounts mentioned in the warrants; and enactment in lieu thereof that payment of such amounts shall be made by the overseers into the Bank of England to the account of the Receiver.]

Rating of landlords. 10 Geo. 4. c. 44. s. 27. [Provision for rating landlords for houses occupied by ambassadors, &c.]

Inspection of county rates. 10 Geo. 4. c. 44. s. 28. [Power to either of the said Justices, or any person having an order from him, to inspect, &c. county rates.]

See 20 & 21 Vict. c. 64. ss. 12, 13, 14.

Accounts. 10 Geo. 4. c. 44. s. 29. [Accounts to be laid before Parliament.]

Extra-parochial places, &c. 10 Geo. 4. c. 44. ss. 30—33. [Provisions for assessing and levying a Police rate in those places where there is no poor rate.]

See as to parts of parishes, 2 & 3 Vict. c. 47. s. 2., and as to extra-parochial places, 20 Vict. c. 19.

*Issue of Public Money towards Expenses of the
Metropolitan Police.*

3 & 4 Will. 4. c. 89. s. 1. [Upon the certificate of the Secretary of State, that the overseers of any parish, &c. have paid all arrears, &c., and have paid within the period prescribed by 10 Geo. 4. c. 44. a sum equal to 3*d.* in the pound on the full annual value of all property rated to the Police rate, towards the discharge of any warrant issued for maintaining the Police for the next six months, the Treasury may direct the issue out of the consolidated fund of such a sum as may be required in addition to such 3*d.* in the pound to defray the charge of the Police; and no such parish, &c. having paid all arrears, and such 3*d.* in the pound, to be subject to any higher charge for defraying the charge of the Police during the next six months.]

Contribution
out of consoli-
dated fund.

3 & 4 Will. 4. c. 89. s. 2. [Not more than £60,000 to be so issued in any year.]

Limit of
Amount.

Repealed by 20 & 21 Vict. c. 64. s. 10., post, p. 12.

2 & 3 Vict. c. 47. s. 3. [Where hereafter any parish, &c. becomes part of the Metropolitan Police District, the Treasury may direct the issue out of the consolidated fund of an additional yearly sum not greater than 2*d.* in the pound upon the additional rental assessed to the Metropolitan Police by reason of such addition, in aid of the charge of maintaining the Police, upon the same conditions, with respect to the district added, as the issue of a sum not exceeding £60,000 is authorized with respect to the parishes, &c. already within the Metropolitan Police District by 3 & 4 Will. 4. c. 89.; every parish, &c. added to be within last-mentioned act.]

Additional sum
for additional
parishes, &c.

See 20 & 21 Vict. c. 64. s. 10., post, p. 12.

2 & 3 Vict. c. 47. s. 6. [Treasury to direct the issue out of the consolidated fund to the Receiver of a yearly sum not greater than £20,000 for defraying increased charge of the Metropolitan Police Force by reason of its being required to perform the duties heretofore performed by the Horse Patrol and surveyors and constables of the Thames Police, and of such further sum as is needed for the superannuation allowances of surveyors and constables superannuated under 3 Geo. 4. c. 55.* or any subse-

Additional sum
on account of
duties of Horse
Patrol and
Thames Police,
and certain
superannua-
tions.

* Expired; having been previously repealed by 3 & 4 Will. 4. c. 19. s. 54., which act is repealed by 2 & 3 Vict. c. 71. s. 54., without any saving for the repeal contained in it.

quent act for the more effectual administration of the office of a justice of the peace in and near the Metropolis.]

Constables
formerly in
Horse and Foot
Patrol and
Thames Police
declared within
the provision
for superannua-
tion allow-
ances.

3 & 4 Vict. c. 84. s. 14. The men belonging to the Horse and Foot Patrol formerly acting under the authority of the chief magistrate of the public office in Bow Street, or to the Thames Police, but now belonging to the Metropolitan Police Force, shall be entitled, when completely disabled by bodily injury or worn out by length of service, to receive such superannuation allowances as shall be directed by one of Her Majesty's Principal Secretaries of State, which allowances shall be paid out of the sums which, by 2 & 3 Vict. c. 47., are authorized to be issued out of the consolidated fund for the payment of superannuation allowances to the surveyors and constables therein specified.

Transfer from
consolidated
fund to annual
vote.

[By 17 & 18 Vict. c. 94. the sums which were payable out of the consolidated fund under 3 & 4 Will. 4. c. 89. and 2 & 3 Vict. c. 47. are made payable out of such aids and supplies as may be from time to time provided and appropriated by Parliament for the purpose.]

3 & 4 Vict.
c. 89. s. 2.
repealed.
Alteration of
limit of
amount.

20 & 21 Vict. c. 64. s. 10. [3 & 4 Will. 4. c. 89. s. 2. repealed; but the sum which the Treasury shall cause to be issued under 3 & 4. Will. 4. c. 89., and 2 & 3 Vict. c. 47. s. 3. as amended by 17 & 18 Vict. c. 94., not to exceed altogether in any one year 2*d.* in the pound upon the rental assessed to the Metropolitan Police in the whole of the Metropolitan Police District.]

For the amount of Police rate received from parishes, &c., and the amount contributed by the Treasury in the year 1860, see Appendix (C.)

Privileges and General Duties of and Offences by and against the Police Force.

[As to general powers of policemen to act as constables, see ante, pp. 4, 5.]

Exemption
from tolls.

2 & 3 Vict. c. 47. s. 10. [No toll to be taken on any turnpike road or bridge for any horse or police van in the service of the Metropolitan Police, provided the rider or driver have his dress and accoutrements according to the Police regulations; penalty for fraudulently taking the benefit of exemption not more than £5; proof of exemption to be upon person claiming same.]

2 & 3 Vict. c. 47. s. 11. [The Commissioners to take care that a sufficient number of Police constables be in attendance upon every magistrate sitting at any police court within the Metropolitan Police District, and at every other criminal court within such district, for executing summonses and warrants directed to them.] Police constables to attend the magistrates, &c.

2 & 3 Vict. c. 47. s. 12. All summonses and warrants issued in any criminal proceeding within the Metropolitan Police District, or by any magistrate within the said district, shall be served and executed by a constable of the Metropolitan Police Force, and by none other.* Summonses and warrants in criminal proceedings or of magistrates to be executed by them.

[As to militia notices, &c., see 3 & 4 Vict. c. 84. s. 10., *post*, p. 61., and 17 & 18 Vict. c. 105. s. 39., *post*, p. 397.]

2 & 3 Vict. c. 47. s. 13. When any warrant is directed or delivered to any of the said constables, unless it be necessary for the due execution thereof that such warrant be executed without delay, the constable shall deliver the same to the superintendent or other his superior officer, who shall appoint, by endorsement thereon, one or more constables to execute the same; and every constable whose name is so endorsed shall have the same powers, privileges, and protections for and in the execution of such warrant as if it had been originally directed to him or them by name. How warrants issued to Police constables may be executed.

[By 2 & 3 Vict. c. 71. s. 17., *post*, p. 44, certain warrants issued by metropolitan police magistrates in respect of matters arising within the Metropolitan Police District may be served or executed out of such district by the constables to whom the same are directed without endorsement.]

2 & 3 Vict. c. 47. s. 14. Every constable guilty of any neglect or violation of duty in his office of constable shall be liable to a penalty not more than £10, the amount of which may be deducted from any salary then due to him, or, in the discretion of the magistrate, may be imprisoned, with or without hard labour, for not more than one calendar month. Penalty on constables for neglect of duty.

See also 24 & 25 Vict. c. 96. ss. 69, 70., post, p. 437; and see the various acts under which penalties for neglect to to perform duties thereby required of constables are imposed.

*By 16 & 17 Vict. c. 107. (the Customs Consolidation Act, 1853) s. 270., any summons for any offence against the customs acts may be served by any officer of customs or excise, or by any person to whom the same is delivered for that purpose; and by s. 279. officers of customs are empowered to execute warrants of commitment.

Constables not to resign without leave or notice.

2 & 3 Vict. c. 47. s. 15. [No constable of the Metropolitan Police Force to resign his office, or withdraw from its duties, unless allowed in writing by the superintendent under whom he is placed, or unless he give to such superintendent one calendar month's notice of his intention; and every constable so doing to be liable to forfeit all arrears of pay, or to a penalty not more than £5.]

Constables dismissed to deliver up accoutrements.

2 & 3 Vict. c. 47. s. 16. [Every constable of the Metropolitan Police Force dismissed from or ceasing to hold his office, and not forthwith delivering over all clothing, accoutrements, appointments, and necessities supplied to him, to the superintendent, or as directed by him, to be liable to imprisonment, with or without hard labour, for not exceeding one calendar month; and it shall be lawful for any justice to issue his warrant to search for and seize, to the use of Her Majesty, all the clothing, accoutrements, appointments, and necessities not so delivered.]

Penalty for unlawful possession of accoutrements, or for assuming the dress of constables.

2 & 3 Vict. c. 47. s. 17. Every person, not being a constable of the Metropolitan Police Force, who has in his possession any article being part of the clothing, accoutrements, or appointments supplied to any such constable, and who is not able satisfactorily to account for his possession thereof, or who puts on the dress or takes the name, designation, or character of any person appointed as such constable, for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he may be liable for such offence, be liable to a penalty not more than £10.

Penalty for assaults on Metropolitan Police.

2 & 3 Vict. c. 47. s. 18. Every person who assaults or resists any person belonging to the Metropolitan Police Force in the execution of his duty, or who aids or incites any person so to assault or resist, shall for every such offence be liable to a penalty not more than £5, or, in the discretion of the magistrate before whom he is convicted, may be imprisoned for not more than one calendar month.

This section, taken in connexion with sect. 75. post, as amended by 3 & 4 Vict. c. 84. ss. 1. 6, post, pp. 58, 59, seems to

supersede 10 Geo. 4. c. 44. s. 8.; it seems also to be itself superseded by the recent enactment, 24 & 25 Vict. c. 51. s. 3., post, p. 65, which, however, it is apprehended could not have been intended to have this effect, see the preamble of that act; see also other provisions for punishing persons obstructing peace officers, 24 & 25 Vict. c. 100. ss. 18, 38., post, pp. 514. 520; see also 5 Geo. 4. c. 83. ss. 4, 5., post, p. 124., 9 Geo. 4. c. 69. s. 2., post, p. 332, and 14 & 15 Vict. c. 19. s. 12., post, p. 335.*

10 Geo. 4. c. 44. s. 6. If any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, knowingly harbour or entertain any man belonging to the said Police Force, or permit such man to abide or remain in his house, shop, room, or other place, during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices, shall for every such offence forfeit such sum not exceeding £5 as they think meet.

Penalty on publicans harbouring constables during hours of duty.

See a provision applicable to all constables in 23 & 24 Vict. c. 27. s. 39, post, p. 213.

General Provisions of 2 & 3 Vict. c. 47. as to Offences, and as to Powers of the Police.

25. Every person who shall use, work, or navigate any boat whatsoever upon the River Thames for the purpose of selling, disposing of, or exposing for sale to and amongst the seamen or other persons employed in and about any of the ships or vessels upon the said river any liquors, slops, or other articles whatsoever between London Bridge and Limehouse Hole shall be deemed to keep such boat for gain, and shall be within all the provisions of an act passed in the eighth year of the reign of His Majesty King George the Fourth, intituled "An Act for the better Regulation of the Watermen and Lightermen on the River Thames between Yantlet Creek and Windsor," concerning persons who keep, within the limits of the said act, any boat to be let out for hire or gain.

Certain boats subject to provisions of 7 & 8 G. 4. c. lxxv.

* The following is the enactment of 10 Geo. 4. c. 44. s. 8.:—"If any person shall assault or resist any person belonging to the said Police Force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall for every such offence forfeit and pay such sum not exceeding £5 as the said justices shall think meet."

For the Provisions here referred to, see 7 & 8 Geo. 4. c. lxxv. s. 41., which requires every such boat to be registered with the Watermen's Company, and to have the number painted on it, under a penalty of 40s.

Persons receiving ship stores from seamen, &c.

26. Every person who within the Metropolitan Police District shall knowingly take in exchange from any seaman or other person, not being the owner or master of any vessel, anything belonging to any vessel lying in the River Thames or in any of the docks or creeks adjacent thereto, or any part of the cargo of any such vessel, or any stores or articles in charge of the owner or master of any such vessel, shall be deemed guilty of a misdemeanor.

See also 17 & 18 Vict. c. 104. s. 480., post, p. 318.

Cutting ropes, cables, &c.

27. Every person who shall unlawfully cut, damage, or destroy any of the ropes, cables, cordage, tackle, headfasts, or other the furniture of or belonging to any ship, boat, or vessel lying in the River Thames or in any of the docks or creeks adjacent thereto, with intent to steal or otherwise unlawfully obtain the same or any part thereof, shall be deemed guilty of a misdemeanor.

See 6 & 7 Vict. c. lvii. ss. 36-38., post, p. 405.

Wilfully letting fall articles into the Thames, &c., with fraudulent intention.

28. It shall be lawful for any constable to take into custody every person who, for the purpose of preventing the seizure or discovery of any materials, furniture, stores, or merchandise belonging to or having been part of the cargo of any ship, boat, or vessel lying in the River Thames or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, shall wilfully let fall or throw into the river, or in any other manner convey away from any ship, boat, or vessel, wharf, quay, or landing place, any such article, or who shall be accessory to any such offence, and also to seize and detain any boat in which such person shall be found, or out of which any article shall be so let fall, thrown, or conveyed away; and every such person shall be deemed guilty of a misdemeanor.

Framing a false bill of parcels to escape detection.

29. Every person who, for the purpose of protecting or preventing anything whatsoever from being seized within the Metropolitan Police District on suspicion of its being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence concerning any felony or misdemeanor committed or supposed to be committed within the Metropolitan Police

District, shall frame or cause to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any such thing, the place whence or the conveyance by which the same was furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed; shall be deemed guilty of a misdemeanor.

30. Every person who shall be found within the Metropolitan Police District, in or upon any canal, dock, warehouse, wharf, quay, or bank, or on board any ship or vessel, having in his or her possession any tube or other instrument for the purpose of unlawfully obtaining any wine, spirits, or other liquors, or having in his or her possession any skin, bladder, or other material or utensil for the purpose of unlawfully secreting or carrying away any such wine, spirits, or other liquors, and any person who shall attempt unlawfully to obtain any such wine, spirits, or other liquor, shall be deemed guilty of a misdemeanor.

Possessing instruments for unlawfully procuring and carrying away wine, &c.

31. Every person who shall, within the Metropolitan Police District, bore, pierce, break, cut open, or otherwise injure any cask, box, or package containing wine, spirits, or other liquors, on board any ship, boat, or vessel, or in or upon any warehouse, wharf, quay, or bank, with intent feloniously to steal or otherwise unlawfully obtain any part of the contents thereof, or who shall unlawfully drink or wilfully spill or allow to run to waste any part of the contents thereof, shall be deemed guilty of a misdemeanor.

Piercing casks, opening packages, &c.

32. Every person who shall, within the Metropolitan Police District, wilfully cause to be broken, pierced, started, cut, torn, or otherwise injured, any cask, chest, bag, or other package containing or prepared for containing any goods while on board of any barge, lighter, or other craft lying in the said river, or any dock, creek, quay, wharf, or landing place adjacent to the same, or in the way to or from any warehouse, with intent that the contents of such package or any part thereof may be spilled or dropped from such package, shall be deemed guilty of a misdemeanor.

Breaking packages, with intent to spill contents.

33. Any superintendent or inspector belonging to the Metropolitan Police Force shall have power, by virtue of his office, to enter at all times, with such constables as he shall think necessary, as well by night as by day into and

Superintendents and inspectors may board vessels.

upon every ship, boat, or other vessel (not being then actually employed in Her Majesty's service) lying in the said river or creeks, or in any dock or docks thereto adjacent, and into every part of every such vessel, for the purpose of inspecting and upon occasion directing the conduct of any constable who may be stationed on board of any such vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any such vessel, in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention or detection of any felonies or misdemeanors.

Superintendent, &c. having just cause to suspect felony, may enter on board vessels, and take up suspected persons.

34. It shall be lawful for every superintendent, inspector or serjeant belonging to the Metropolitan Police Force, having just cause to suspect that any felony has been or is about to be committed in or on board of any ship, boat, or other vessel lying in the said river, docks, or creeks, to enter at all times, as well by night as by day, into and upon every such ship, boat, or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in or upon the said river, docks, or creeks, and to take into custody all persons suspected of being concerned in such felonies, and also to take charge of all property so suspected to be stolen.

Unlawful quantities of gunpowder may be seized.

35. It shall be lawful for every superintendent or inspector belonging to the Metropolitan Police Force, with such constables as he shall think necessary, at any time between sun-rising and sun-setting, to enter any ship, boat, or vessel (except Her Majesty's ships) in the said river, docks, and creeks, and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship, boat, or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by virtue of 12 Geo. 3. c. 61.

12 Geo. 3. c. 61. is repealed by 23 & 24 Vict. c. 139. s. 1., which act (s. 36.) provides that this enactment of 2 & 3 Vict. c. 47. is to be construed as if the repealing act had been referred to instead of the repealed act: See the repealing act, post, p. 383.

36. Every master or commander or other officer of any ship, boat, or vessel (except Her Majesty's ships) who, while such ship or vessel shall lie or be in the river Thames between Westminster Bridge and Blackwall,* keep any gun on board such ship, boat, or vessel shotted or loaded with ball, or cause or permit to be fired any gun on board such ship, boat, or vessel before sun-rising or after sun-setting, shall be liable for every gun so kept shotted or loaded to a penalty of 5s., and for every gun so fired shall be liable to a penalty of 10s.

Penalty for having on board guns loaded with ball, or discharging guns in the night.

* Sic.

37. Every master or commander or other officer of any such ship, boat, or vessel, or any other person on board of the same, who, while such ship, boat, or vessel shall lie in the said river between Westminster Bridge and Blackwall, shall heat or melt, or cause or permit to be heated or melted, on board such ship, boat, or vessel, any pitch, tar, rosin, grease, tallow, oil, or other combustible matter, shall for every such offence be liable to a penalty not more than £5.

Penalty for heating combustible matters on board of vessels.

38. The business and amusements of all fairs holden within the Metropolitan Police District shall cease at the hour of 11 in the evening, and shall not begin earlier than the hour of six in the morning; and if any house, room, booth, standing, tent, caravan, waggon, or other place shall, during the continuance of any such fair, be open within the hours of 11 in the evening and six in the morning, for any purpose of business or amusement, in the place where such fair shall be holden, it shall be lawful for any constable to take into custody the person having the care or management thereof, and also every person being therein who shall not quit the same forthwith upon being bidden by such constable so to do; and the person so then having the care or management of any such house, room, booth, standing, tent, caravan, waggon, or other place shall be liable to a penalty not more than £5, and every person convicted of having been therein, and of not having quitted the same forthwith upon being bidden by a constable so to do, shall be liable to a penalty not more than 40s.

Penalty on keeping fairs open within forbidden hours.

39. If it shall appear to the Commissioners of Police that any fair usually holden within the Metropolitan Police District has been holden without lawful authority, or that any fair lawfully holden within the said district has been usually holden for a longer period than is so warranted, it shall be competent to such Commissioners to direct one of the superintendents belonging to the Metropolitan Police Force to summon the owner or occupier of the ground upon

Fairs within the Metropolitan Police District may be inquired into.

If declared
unlawful,
booths, &c. to
be removed.

which such fair is usually holden to appear before a magistrate at a time and place to be specified in the summons, not less than eight days after the service of the summons, to show his right and title to hold such fair, or to hold such fair beyond a given period (as the case may be); and if such owner or occupier shall not attend in pursuance of such summons, or shall not show to the magistrate who shall hear the case sufficient cause to believe that such fair has been lawfully holden for the whole period during which the same has been usually holden, the magistrate shall declare in writing such fair to be unlawful, either altogether or beyond a stated period (as the case may be); and the Commissioners shall give notice of such declaration by causing copies thereof to be affixed on the parish church and on other public places in and near the ground where such fair has been usually holden; and if, after such notices have been affixed for the space of six days, any attempt shall be made to hold such fair, if it shall be declared altogether unlawful, or to hold it beyond the prescribed period if it shall be declared unlawful beyond a certain period, the Commissioners of Police may direct any constable to remove every booth, standing, and tent, and every carriage of whatsoever kind, conveyed to or being upon the ground for the purpose of holding or continuing such fair, and to take into custody every person erecting, pitching, or fixing, or assisting to erect, pitch, or fix any such booth, standing, or tent, and every person driving, accompanying, or conveyed in every such carriage, and every person resorting to such ground with any show or instrument of gambling or amusement; and every person convicted before a magistrate of any of the offences last aforesaid shall be liable to a penalty not more than £10.

On entering
into recogni-
zance, question
as to right of
title to fair may
be tried in the
Queen's Bench

40. Provided nevertheless, that if the owner or occupier of the ground whereon any such fair has been usually holden shall, when summoned before the magistrate, enter into a recognizance in the penal sum of £200 (which recognizance such magistrate is hereby authorized to take), with condition to appear in the Court of Queen's Bench on the first day of the then next term, and to answer to any information which Her Majesty's Attorney or Solicitor General may exhibit against such owner or occupier touching his right and title to such fair, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, which costs the said court is hereby authorized to award, then, notwithstanding the magistrate may have declared such fair to be unlawful, the

Commissioners of Police shall forbear from giving notice of such declaration, and from taking any further measures thereon, until judgment shall be given by the said court against the right and title to such fair; and the magistrate taking such recognizance shall forthwith transmit the same to one of Her Majesty's Principal Secretaries of State, to the end that the same may be filed in the said court, and such further directions may be given thereon as to such Secretary of State may seem fit.

41. Every person who by reason of his or her freedom of the mystery or craft of vintners of the city of London, or of any right or privilege of such mystery, shall claim to be entitled to sell foreign wine by retail, to be drunk or consumed on the premises, within the Metropolitan Police District, without licence, shall be subject to all the provisions of all acts made for the regulation of persons so licensed (except those provisions which require or refer to the taking out of a licence either from any justice of the peace or from the commissioners of excise), and, in the case of any offence committed by him or her against the tenor of the licence granted under the provisions of any act for the sale of exciseable liquors by retail, to be drunk or consumed on the premises, shall be liable to be dealt with, proceeded against, and punished in like manner as if selling wine by licence and not by virtue of such claim or privilege.

Freemen of vintners' company subject to certain provisions.

42. No licensed victualler or other person shall open his house, within the Metropolitan Police District, for the sale of wine, spirits, beer, or other fermented or distilled liquors, on Sundays, Christmas Day, and Good Friday, before the hour of one in the afternoon, except refreshment for travellers.

Public houses to be shut on the mornings of Sundays, &c.

See 11 & 12 Vict. c. 49., post, p. 201.; 18 & 19 Vict. c. 118., post, p. 202, and note on that act, and 5 & 6 Vict. c. 44. post, p. 203.

43. Every person licensed to deal in exciseable liquors within the said district who shall knowingly supply any sort of distilled exciseable liquor to any boy or girl apparently under the age of 16 years, to be drunk upon the premises, shall be liable to a penalty not more than 20s., and upon conviction of a second offence shall be liable to a penalty not more than 40s., and upon conviction of a third offence shall be liable to a penalty not more than £5.

Publicans prohibited from supplying liquors to persons under 16 years of age.

44. [Recites expediency of extending the provisions for preventing disorderly conduct in houses of licensed victuallers to other houses of public resort.]

Regulations of 9 G. 4. c. 61. respecting public houses to

extend to other
houses of
public resort.

Every person who shall have or keep any house, shop, room, or place of public resort within the Metropolitan Police District, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same shall be kept or retailed therein or procured elsewhere,) and who shall wilfully or knowingly permit drunkenness or other disorderly conduct in such house, shop, room, or place, or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall for every such offence be liable to a penalty of not more than £5: Provided always, that if the offender be a licensed victualler, or licensed to sell beer by retail to be drunk on the premises, this enactment shall not be construed to exempt him from the penalties or penal consequences to which he may be liable for committing an offence against the tenor of the licence to him granted.

See 9 Geo. 4. c. 61. s. 21., post, p. 177., and 1 Will. 4. c. 64. ss. 13. 15., post, pp. 185-6.

Penalty on
keepers of cook
shops, &c.
making in-
ternal commu-
nication with
an adjoining
public house.

45. Every person who shall make or use or allow to be made or used any internal communication between any house, shop, room, or place of public resort not licensed for the sale of wine, spirits, beer, or other exciseable articles within the said district, and any house, shop, room, or place licensed for the sale of wine, spirits, beer, or other exciseable articles, or in which wine is sold by a free vintner, shall be liable to a penalty not more than £10 for every day that such communication shall be open.

Power to enter
unlicensed
theatres. and
take away per-
sons found
there.

46. It shall be lawful for the said Commissioners of Police, by order in writing, to authorize any superintendent belonging to the Metropolitan Police, with such constables as he may think necessary, to enter into any house or room kept or used within the said district for stageplays or dramatic entertainments into which admission is obtained by payment of money, and which is not a licensed theatre, at any time when the same shall be open for the reception of persons resorting thereto, and to take into custody all persons who shall be found therein without lawful excuse; and every person keeping, using, or knowingly letting any house or other tenement for the purpose of being used as an unlicensed theatre shall be liable to a penalty not more than £20, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, for a time not more than two calendar months; and every person performing or being therein without lawful excuse shall be

liable to a penalty not more than 40s.; and a conviction under this act for this offence shall not exempt the owner, keeper, or manager of any such house, room, or tenement from any penalty or penal consequences to which he may be liable for keeping a disorderly house, or for the nuisance thereby occasioned.

See 6 & 7 Vict. c. 68. s. 11., post, p. 149.

47. Every person who within the Metropolitan Police District shall keep or use, or act in the management of any house, room, pit, or other place for the purpose of fighting or baiting lions, bears, badgers, cocks, dogs, or other animals, shall be liable to a penalty not more than £5, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, for a time not more than one calendar month; and it shall be lawful for the Commissioners of Police by order in writing to authorize any superintendent belonging to the Metropolitan Police Force, with such constables as he shall think necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons who shall be found therein without lawful excuse; and every person so found shall be liable to a penalty not more than 5s.; and a conviction under this act of this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penalty or penal consequence to which he may be liable for the nuisance thereby occasioned.

Places used or
bear-baiting,
cock-fighting,
&c.

See 12 & 13 Vict. c. 92. s. 3., post, p. 138; and see 19 & 20 Vict. c. 2. s. 5., ante, p. 2.

48. [Commissioners on report of superintendent of there being good grounds for believing that any house or room is used or kept as a common gaming house, and on oath of two householders that the premises are commonly reported and are believed by deponents to be so used or kept, may authorize superintendent to enter same, &c., and owner or keeper, &c. liable to a penalty not more than £100, or, may be committed, with or without hard labour, for not more than six calendar months; and upon conviction, all monies and securities for monies seized to be paid to Receiver, to be applied towards defraying charge of the police; and every person found in the premises without lawful excuse liable to a penalty not more than £5; nothing herein to prevent any proceeding by indictment; but no person to be proceeded against by indictment and under this act for same offence.]

Gaming
houses.

This enactment seems in part superseded by 8 & 9 Vict. c. 109. ss. 4. 6, 7, 8., post, pp. 152-3; and see 17 & 18 Vict. c. 38., post, p. 157.

extend to other
houses of
public resort.

Every person who shall have or keep any house, shop, room, or place of public resort within the Metropolitan Police District, wherein provisions, liquors, or refreshments of any kind shall be sold or consumed, (whether the same shall be kept or retailed therein or procured elsewhere,) and who shall wilfully or knowingly permit drunkenness or other disorderly conduct in such house, shop, room, or place, or knowingly suffer any unlawful games or any gaming whatsoever therein, or knowingly permit or suffer prostitutes or persons of notoriously bad character to meet together and remain therein, shall for every such offence be liable to a penalty of not more than £5: Provided always, that if the offender be a licensed victualler, or licensed to sell beer by retail to be drunk on the premises, this enactment shall not be construed to exempt him from the penalties or penal consequences to which he may be liable for committing an offence against the tenor of the licence to him granted.

See 9 Geo. 4. c. 61. s. 21., post, p. 177., and 1 Will. 4. c. 64. ss. 13. 15., post, pp. 185-6.

Penalty on
keepers of cook
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liable to a penalty not more than 40s.; and a conviction under this act for this offence shall not exempt the owner, keeper, or manager of any such house, room, or tenement from any penalty or penal consequences to which he may be liable for keeping a disorderly house, or for the nuisance thereby occasioned.

See 6 & 7 Vict. c. 68. s. 11., post, p. 149.

47. Every person who within the Metropolitan Police District shall keep or use, or act in the management of any house, room, pit, or other place for the purpose of fighting or baiting lions, bears, badgers, cocks, dogs, or other animals, shall be liable to a penalty not more than £5, or, in the discretion of the magistrate, may be committed to the house of correction, with or without hard labour, for a time not more than one calendar month; and it shall be lawful for the Commissioners of Police by order in writing to authorize any superintendent belonging to the Metropolitan Police Force, with such constables as he shall think necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons who shall be found therein without lawful excuse; and every person so found shall be liable to a penalty not more than 5s.; and a conviction under this act of this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penalty or penal consequence to which he may be liable for the nuisance thereby occasioned.

Places used or
bear-baiting,
cock-fighting,
&c.

See 12 & 13 Vict. c. 92. s. 3., post, p. 138; and see 19 & 20 Vict. c. 2. s. 5., ante, p. 2.

48. [Commissioners on report of superintendent of there being good grounds for believing that any house or room is used or kept as a common gaming house, and on oath of two householders that the premises are commonly reported and are believed by deponents to be so used or kept, may authorize superintendent to enter same, &c., and owner or keeper, &c. liable to a penalty not more than £100, or, may be committed, with or without hard labour, for not more than six calendar months; and upon conviction, all monies and securities for monies seized to be paid to Receiver, to be applied towards defraying charge of the police; and every person found in the premises without lawful excuse liable to a penalty not more than £5; nothing herein to prevent any proceeding by indictment; but no person to be proceeded against by indictment and under this act for same offence.]

Gaming
houses.

This enactment seems in part superseded by 8 & 9 Vict. c. 109. ss. 4, 6, 7, 8., post, pp. 152-3; and see 17 & 18 Vict. c. 38., post, p. 157.

49. [Proof of gaming for money, &c. not necessary in support of informations for gaming.]

Superseded by 8 & 9 Vict. c. 109. s. 5., post, p. 152; see also s. 8. of same act, and 17 & 18 Vict. c. 38. s. 2. post, p. 158.

Penalty on pawnbroker taking pledge from person under 16.

50. Every pawnbroker within the Metropolitan Police District, and every agent or servant employed by any such pawnbroker, who shall purchase or receive or take any goods or chattels in pawn or pledge of or from any person apparently under the age of 16 years, shall be liable to a penalty not more than £5.

See 39 & 40 Geo. 3. c. 99. s. 21., post, p. 237, and (for restriction as to hours) 9 & 10 Vict. c. 98., post, p. 242.

Empowering Commissioners of Police to regulate route and conduct of persons driving carriages, cattle, &c. during hours of divine service.

51. On the application of the minister or churchwardens of any church, chapel, or other place of public worship within the Metropolitan Police District, to the Commissioners of Police, it shall be lawful for the said Commissioners to make orders for regulating the route and conduct of persons who shall drive any cart or carriage, or who shall drive any cattle, sheep, pigs, or other animals, within such parish or place during the hours of divine service on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving; and any orders which shall be so made shall be printed and affixed on or near the church, chapel, or place of public worship to which the same shall refer, and in some conspicuous places leading to and contiguous thereto, and elsewhere, as the Commissioners of Police shall direct; and every breach of any such order shall be deemed a separate offence.

See s. 54. of this act, par. 9.

Commissioners of Police may make regulations as to cattle;

[By "The Metropolitan Market Act, 1857" (20 & 21 Vict. c. cxxxv.) s. 18. the Commissioners of Police of the Metropolis are empowered from time to time to make such orders, rules, and regulations as they deem expedient with respect to the driving of cattle* within so much of the Metropolitan Police District as is within the city of Westminster and the boundaries of the boroughs of Marylebone, Finsbury, the Tower Hamlets, Lambeth, and Southwark, as defined by 2 & 3 Will. 4. c. 64,† and with respect to the days and hours on and within which and the routes by which cattle shall be driven, and for the control of the drivers: persons disobeying to be liable to a penalty not exceeding 40s.

Penalty.

* This term is to include sheep, lambs, and swine, s. 2.

† The following is the definition referred to:—

FINSBURY. The several parishes of St. Luke, St. George the Martyr, St. Giles in the Fields, St. George Bloomsbury, St. Mary Stoke Newington, and St. Mary

Such orders, &c. are not to be in force until approved by the Secretary of State, and are to be signed by one of the Commissioners, and copies published as directed with respect to the bye-laws for regulating the market.*]

See also 2 & 3 Vict. c. 47. s. 54. par. 3. post, p. 27., and 19 & 20 Vict. c. 2. s. 5., ante, p. 2.

[By s. 19. of the same act such orders, &c. are not to prevent cattle imported into London by sea from being driven to lairs or fields used as lairs on Sunday, provided they be not so driven within the said limits between 10 and 5, nor without certificate from the veterinary surgeon appointed to inspect such cattle that it is necessary for their condition and health that they should be so driven.†]

Saving in favour of driving on Sunday cattle imported.

[By s. 40. of the same act persons liable to penalties under the act, or such orders, &c., are to be proceeded against as persons liable to penalties under 2 & 3 Vict. c. 47.]

Procedure for penalties.

52. It shall be lawful for the Commissioners of Police, from time to time, and as occasion shall require, to make regulations for the route to be observed by all carts,

Regulations for preventing obstructions in the streets during public processions, &c.

Islington; the several liberties or places of Saffron Hill, Hatton Garden, Ely Rents, Ely Place, the Rolls, Glass House Yard and the Charter House; Lincoln's Inn and Gray's Inn; the parish of St. James and St. John, Clerkenwell, except that part thereof which is situate to the north of the parish of Islington; those parts of the respective parishes of St. Sepulchre and St. Andrew Holborn, and of Furnival's Inn and Staple Inn respectively, which are situated without the liberty of the city of London.

MARYLEBONE. The several parishes of St. Marylebone, St. Pancras, and Paddington.

TOWER HAMLETS. The several divisions of the liberty of the Tower and the Tower division of Ossulston Hundred.

LAMBETH. The parish of St. Mary Newington, the parish of St. Giles Camberwell, except the manor and hamlet of Dulwich, and also such part of the parish of Lambeth as is situate to the north of the line herein-after described, including the extra-parochial space encompassed by such part:

From the point at which the road from London to Dulwich by Red Post Hill leaves the road from London over Herne Hill in a straight line to St. Matthew's church at Brixton, thence in a straight line to a point in the boundary between the respective parishes of Lambeth and Clapham 150 yards south of the middle of the carriageway along Acre Lane.

SOUTHWARK. The old borough of Southwark, including the Mint and manor of Suffolk; the several parishes of Rotherhithe, Bermondsey, and Christ Church; and the Clink liberty of the parish of St. Saviour.

* i.e., by copies being painted on boards set up at the entrance of the market, s. 14.

† By the "Islington Parish Act, 1857" (20 & 21 Vict. c. xxi.) s. 3. oxen, sheep, swine, and other cattle are prohibited from being driven in the parish of Islington between 12 o'clock on Saturday night and 12 on Sunday night under a penalty of not exceeding £5., half to go to the informer and half to the vestry [but as to the latter half see 2 & 3 Vict. c. 71. s. 47.]; and s. 4. requires any police magistrate or a justice for Middlesex, upon complaint of a witness, to issue a warrant for apprehending the party accused, and authorizes any police or peace officer, who sees the offence committed, to apprehend, and any person to assist in apprehending, the offender without warrant.

carriages, horses, and persons, and for preventing obstruction of the streets and thoroughfares within the Metropolitan Police District, in all times of public processions, public rejoicings, or illuminations, and also to give directions to the constables for keeping order and for preventing any obstruction of the thoroughfares in the immediate neighbourhood of Her Majesty's Palaces and the public offices, the high court of parliament, the courts of law and equity, the police courts, the theatres, and other places of public resort, and in any case when the streets or thoroughfares may be thronged or may be liable to be obstructed.

See s. 54. of this act, par. 9.

Proprietors of stage carriages not liable to penalties for deviating from route.

53. No proprietor of any stage carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation from the route or line of route specified in his licence which the driver of such stage carriage shall make by virtue of any regulation or direction made or given by the Commissioners of Police.

Prohibition of nuisances by persons in the thoroughfares.

*54. Every person shall be liable to a penalty not more than 40s. who, within the limits of the Metropolitan Police District, shall, in any thoroughfare or public place, commit any of the following offences; (that is to say,)

1. Every person who shall, to the annoyance of the inhabitants or passengers, expose for show or sale (except in a market lawfully appointed for that purpose), or feed or fodder any horse or other animal, or show any caravan containing any animal, or any other show or public entertainment, or shoe, bleed, or farry any horse or animal (except in cases of accident), or clean, dress, exercise, train, or break any horse or animal, or clean, make, or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary.
2. Every person who shall turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog, or set on or urge any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.

See also 5 & 6 Will. 4. c. 50. s. 74. (as to highways), post, p. 279, and 4 Geo. 4. c. 95. s. 75. (as to turn-pike roads), post, p. 292.

* Certain penalties imposed by ss. 12, 13 of 24 & 25 Vict. c. 78. on persons obstructing inspectors of weights and measures, acting under that act in Westminster, and on such inspectors for misconduct, are under s. 15. of the same act to be recovered and applied as if the offences created and penalties imposed by such sections had been created and imposed by and those sections had been enacted in s. 54. of 2 & 3 Vict. c. 47.

3. Every person who by negligence or ill-usage in driving cattle shall cause any mischief to be done by such cattle, or who shall in anywise misbehave himself in the driving, care, or management of such cattle, and also every person not being hired or employed to drive such cattle, who shall wantonly and unlawfully pelt, drive, or hunt any such cattle.

See also 20 & 21 Vict. c. cxxxv. s. 18., ante, p. 25.

4. Every person having the care of any cart or carriage who shall ride on any part thereof, on the shafts, or on any horse or other animal drawing the same, without having and holding the reins, or who shall be at such a distance from such cart or carriage as not to have the complete control over every horse or other animal drawing the same.

See also 5 & 6 Will. 4. c. 50. ss. 77, 78. (as to highways), post, p. 281, and 3 Geo. 4. c. 126. ss. 130-2. (as to turnpike roads), post, p. 287.

5. Every person who shall ride or drive furiously, or so as to endanger the life or limb of any person, or to the common danger of the passengers in any thoroughfare.

See 24 & 25 Vict. c. 100. s. 35, post, p. 519. and references thereon.

6. Every person who shall cause any cart, public carriage, sledge, truck, or barrow, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up or setting down passengers, except hackney carriages standing for hire in any place not forbidden by law, or who by means of any cart, carriage, sledge, truck, or barrow, or any horse or other animal, shall wilfully interrupt any public crossing or wilfully cause any obstruction in any thoroughfare.

See also 5 & 6 Will. 4. c. 50. s. 72. (as to highways), post, p. 277, and 3 Geo. 4. c. 126. s. 121. (as to turnpike roads), post, p. 284.

7. Every person who shall lead or ride any horse or other animal, or draw or drive any cart or carriage, sledge, truck, or barrow upon any footway or curbstone, or fasten any horse or other animal so that it can stand across or upon any footway.

See note on last preceding paragraph.

8. Every person who shall roll or carry any cask, tub, hoop, or wheel, or any ladder, plank, pole, showboard, or placard, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway.
9. Every person who, after being made acquainted with the regulations or directions which the Commis-

sioners of Police shall have made for regulating the route of horses, carts, carriages, and persons during the time of divine service, and for preventing obstructions during public processions, and on other occasions herein-before specified, shall wilfully disregard or not conform himself thereunto.

10. Every person who, without the consent of the owner or occupier, shall affix any posting bill or other paper against or upon any building, wall, fence, or pale, or write upon, soil, deface, or mark any such building, wall, fence, or pale with chalk or paint, or in any other way whatsoever, or wilfully break, destroy, or damage any part of any such building, wall, fence, or pale, or any fixture or appendage thereunto, or any tree, shrub, or seat in any public walk, park, or garden.
11. Every common prostitute or nightwalker, loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation, to the annoyance of the inhabitants or passengers.

See also 5 Geo. 4. c. 83. ss. 3-6., post, pp. 122-5.

12. Every person who shall sell or distribute or offer for sale or distribution, or exhibit to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sing any profane, indecent, or obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent, or obscene language, to the annoyance of the inhabitants or passengers.

See also 5 Geo. 4. c. 83. ss. 4-6., post, pp. 123-5, 1 & 2 Vict. c. 38. s. 2., post, p. 131, and 20 & 21 Vict. c. 83., post, p. 132.

13. Every person who shall use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned :
14. Every person, except the guards and postmen belonging to Her Majesty's Post Office in the performance of their duty, who shall blow any horn or use any other noisy instrument, for the purpose of calling persons together, or of announcing any show or entertainment, or for the purpose of hawking, selling, distributing, or collecting any article whatsoever, or of obtaining money or alms.

See 6 & 7 Vict. c. 86. s. 33, post, p. 107. (as to the driver or conductor of a metropolitan stage carriage).

15. Every person who shall wantonly discharge any fire-arm, or throw or discharge any stone or other missile, to the damage or danger of any person, or make any bonfire, or throw or set fire to any fire-work.

See 5 & 6 Will. 4. c. 50. s. 72. (as to highways), post, p. 278, and 3 Geo. 4. c. 126. s. 121. (as to turnpike roads), post, p. 285; see also 23 & 24 Vict. c. 139. s. 9., post p. 386.

16. Every person who shall wilfully and wantonly disturb any inhabitant by pulling or ringing any door-bell or knocking at any door without lawful excuse, or who shall wilfully or unlawfully extinguish the light of any lamp.

See also 18 & 19 Vict. c. 120. s. 206., post, p. 255, and 3 Geo. 4. c. 126. s. 121. and 7 & 8 Geo. 4. c. 24. s. 6. (as to turnpike roads), post, pp. 286, 293.

17. Every person who shall fly any kite or play at any game to the annoyance of the inhabitants or passengers, or who shall make or use any slide upon ice or snow in any street or other thoroughfare, to the common danger of the passengers.

See also 5 & 6 Will. 4. c. 50. s. 72. (as to highways), post, p. 277, and 3 Geo. 4. c. 126. s. 121. (as to turnpike roads), post, p. 285.

And it shall be lawful for any constable belonging to the Metropolitan Police Force to take into custody, without warrant, any person who shall commit any such offence within view of any such constable.

See also 18 & 19 Vict. c. 120. s. 106., post, p. 255, and 5 & 6 Will. c. 50. s. 79. (as to highways), post, p. 282, and 3 Geo. 4. c. 126. s. 140. (as to turnpike roads), post, p. 289.

55. No person other than persons acting in obedience to lawful authority shall discharge any cannon or other fire-arm of greater calibre than a common fowling piece within 300 yards of any dwelling house within the said district, to the annoyance of any inhabitant thereof, and every person who after being warned of the annoyance by any inhabitant shall discharge any such fire-arm shall be liable to a penalty not more than £5.

Cannon, &c.
not to be fired
near dwelling
houses.

56. After 1st January next every person who within the Metropolitan Police District shall use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow shall be liable to a penalty not more than

Dog carts, &c.
prohibited.

40s. for the first offence, and not more than £5 for the second or any following offence.

Extended to all parts of the United Kingdom by 17 & 18 Vict. c. 60. s. 2.

Street musicians to depart when required for reasonable cause.

57. It shall be lawful for any householder, within the Metropolitan Police District, personally, or by his servant, or by any police constable, to require any street musician to depart from the neighbourhood of the house of such householder on account of the illness of any inmate of such house, or for other reasonable cause, and every person who shall sound or play upon any musical instrument in any thoroughfare near any house after being so required to depart shall be liable to a penalty not more than 40s.

Penalty on drunkard guilty of riotous or indecent behaviour and on person guilty of violent, &c. behaviour in police station.

58. Every person who shall be found drunk in any street or public thoroughfare within the said district, and who while drunk shall be guilty of any riotous or indecent behaviour, and also every person who shall be guilty of any violent or indecent behaviour in any police station house, shall be liable to a penalty of not more than 40s. for every such offence, or may be committed, if the magistrate before whom he shall be convicted shall think fit, instead of inflicting on him any pecuniary penalty, to the house of correction for any time not more than seven days.

See also 23 & 24 Vict. c. 27. s. 40., post, p. 214.

Persons using carriage without driver's consent liable to penalty.

59. Every person who shall ride upon or cause himself to be carried or drawn by any carriage within the Metropolitan Police District, without the consent of the owner or driver thereof, shall be liable to a penalty not more than 5s. or if a child apparently under the age of 12 years it shall be lawful for the magistrate to cause such child to be detained until his parent or guardian can attend for the purpose of having such child delivered into his care, and if such parent or guardian do not so attend before the closing of the police court for the day it shall be lawful for the magistrate to order such child to be discharged.

Prohibition of other nuisances in thoroughfares, &c.

60. Every person who, in any street or public place within the limits of the Metropolitan Police District, shall be guilty of any of the following offences, shall be liable to a penalty not more than 40s. for every such offence; (that is to say,)

1. Every person who in any thoroughfare shall burn, dress, or cleanse any cork, or hoop, cleanse, fire, or scald any cask or tub, or hew, saw, bore, or cut any timber or stone, or slack, sift, or screen any lime.

2. Every person who shall throw or lay in any thoroughfare any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials (except building materials, or rubbish thereby occasioned, which shall be placed or enclosed so as to prevent any mischief happening to passengers).

See also 5 & 6 Will. 4. c. 50. ss. 56. 72, 73. (as to highways), post, p. 276, 278, and 3 Geo. 4. c. 126. s. 121. (as to turnpike roads), post, p. 286.

3. Every person who in any thoroughfare shall beat or shake any carpet, rug, or mat (except door mats before the hour of eight in the morning), or throw or lay any dirt, litter, or ashes, or any carrion, fish, offal, or rubbish, or throw or cause any such thing to fall into any sewer, pipe, or drain, or into any well, stream, or watercourse, pond or reservoir for water, or cause any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dunghill, into any thoroughfare, or any uncovered place, whether or not surrounded by a wall or fence; but it shall not be deemed an offence to lay sand or other materials in any thoroughfare in time of frost to prevent accidents, or litter or other materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things shall cause them to be removed as soon as the occasion for them shall cease.

See also 18 & 19 Vict. c. 120. s. 205. (as to sewers), post, p. 255, 5 & 6 Will. 4. c. 50. s. 72. (as to highways), post, p. 278, 3 Geo. 4. c. 126. s. 121. (as to turnpike roads), post, p. 286, and 18 & 19 Vict. c. 121. s. 23-25., post, p. 267.

4. Every person who shall empty or begin to empty any privy, between the hours of six in the morning and 12 at night, or remove along any thoroughfare any nightsoil, soap lees, ammoniacal liquor, or other such offensive matter, between the hours of six in the morning and eight in the evening, or who shall at any time use for any such purpose any cart or carriage not having a proper covering, or who shall wilfully or carelessly slop or spill any such offensive matter in the removal thereof, or who shall not carefully sweep and clean every place in which any such offensive matter shall have been placed, slopped, or spilled; and in default of the apprehension of the actual offender the owner of the cart or carriage employed for any such purpose shall be deemed to

be the offender: Provided always, that this enactment shall not be construed to prevent the Commissioners of any Sewers within the Metropolitan Police District,* or any person acting in their service or by their direction, from emptying or removing along any thoroughfare at any time the contents of any sewer which they are authorized to cleanse or empty.

5. Every person, who shall keep any pigsty to the front of any street or road in any town within the said district, not being shut out from such street or road by a sufficient wall or fence, or who shall keep any swine in or near any street, or in any dwelling, so as to be a common nuisance.

See also 18 & 19 Vict. c. 121., post, p. 264.

6. Every occupier of a house or other tenement in any town within the said district who shall not keep sufficiently swept and cleansed all footways and watercourses adjoining to the premises occupied by him; and if any tenement be empty or unoccupied the owner thereof shall be deemed the occupier with reference to this enactment.
7. Every person who shall expose anything for sale in any park or public garden, unless with the consent of the owner or other person authorized to give such consent, or upon or so as to hang over any carriage-way or footway, or on the outside of any house or shop, or who shall set up or continue any pole, blind awning, line, or any other projection from any window, parapet, or other part of any house, shop, or other building, so as to cause any annoyance or obstruction in any thoroughfare.

See 18 & 19 Vict. c. 120. ss. 119, 120., post, p. 251.

8. Every person who, to the danger of passengers in any thoroughfare, shall leave open any vault or cellar, in the entrance from any thoroughfare to any cellar or room underground, without a sufficient fence or handrail, or leave defective the door, window or other covering of any vault or cellar, or who shall not sufficiently fence any area, pit, or sewer left open in or adjoining to any thoroughfare, or who shall leave such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto.

See also 5 & 6 Will. 4. c. 50. s. 55. (as to surveyors of highways), post, p. 276, and 3 Geo. 4. c. 126.

* See 18 & 19 Vict. c. 120. ss. 68, 135, 145.

s. 99. (as to surveyors of turnpike roads), *post*, p. 284, and 18 & 19 Vict. c. 120. s. 121., *post*, p. 252.

61. It shall be lawful for any constable belonging to the Metropolitan Police Force to destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state; and the owner of any such dog or animal who shall permit the same to go at large after having information or reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state, shall be liable to a penalty not more than £5. Mad dogs, &c.

62. Every person who, by committing any offence herein forbidden within the said district, shall have caused any hurt or damage to any person or property, may be apprehended, with or without any warrant, by any constable, and if he shall not, upon demand, make amends for such hurt or damage to the satisfaction of the person aggrieved, he shall be detained by the constable in order to be taken before a magistrate, and upon conviction shall pay such a sum, not more than £10, as shall appear to the magistrate before whom he shall be convicted to be reasonable amends to the person aggrieved, besides any penalty to which he may be liable for the offence, and the evidence of the person aggrieved shall be admitted in proof of the offence: Provided always, that if the person aggrieved shall have been the only witness examined in proof of the offence, the sum ordered as amends shall be paid and applied in the same manner as a penalty. Compensation for hurt or damage not exceeding 10*l*.

But see 18 & 19 Vict. c. 126. s. 22., post, p. 383. See also 6 & 7 Vict. c. 86. s. 28., post, p. 106

63. It shall be lawful for any constable belonging to the Metropolitan Police District,* and for all persons whom he shall call to his assistance, to take into custody, without a warrant, any person who within view of any such constable shall offend in any manner against this act, and whose name and residence shall be unknown to such constable, and cannot be ascertained by such constable. Constables may apprehend any offender whose name and residence are not known.

* Sic.

64. It shall be lawful for any constable belonging to the Metropolitan Police to take into custody without a warrant, all loose, idle, and disorderly persons whom he shall find disturbing the public peace, or whom he shall have good cause to suspect of having committed or being about to commit any felony, misdemeanor, or breach of the peace, and all persons whom he shall find between sunset and the hour of eight in the morning, lying or loitering in any highway, Constables may apprehend without warrant in certain cases.

yard, or other place; and not giving a satisfactory account of themselves.*

See foot note on s. 72.; see also 5 Geo. 4. c. 83. ss. 4-6., post, pp. 122-5, 24 & 25 Vict. c. 96. s. 104., post, pp. 450, 451, 24 & 25 Vict. c. 97. s. 57., post, p. 474, and 24 & 25 Vict. c. 100. s. 66., post, p. 528.

Persons
charged with
recent assaults
may be appre-
hended without
warrant.

65. It shall be lawful for any constable belonging to the Metropolitan Police Force to take into custody, without warrant, any person who within the limits of the Metropolitan Police District shall be charged by any other person with committing any aggravated assault, in every case in which such constable shall have good reason to believe that such assault has been committed, although not within view of such constable, and that by reason of the recent commission of the offence a warrant could not have been obtained for the apprehension of the offender.

Power to police
constables and
persons ag-
grieved to ap-
prehend certain
offenders.

66. Any person found committing any offence punishable either upon indictment or as a misdemeanor, upon summary conviction, by virtue of this act, may be taken into custody without a warrant by any constable, or may be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by his servant or any person authorized by him, and may be detained until he can be delivered into the custody of a constable, to be dealt with according to law;

and every such constable may also stop, search, and detain any vessel, boat, cart, or carriage in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained;

and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed with respect to such property, or that the same or any part thereof has been stolen or otherwise unlawfully obtained, is hereby authorized, and if in his power is required, to apprehend and detain, and as soon as may be to deliver such offender into the custody of a constable, together with such property, to be dealt with according to law.

See also 39 & 40 Geo. 3. c. 99. s. 10., post, p. 227, 24 & 25 Vict. c. 96. s. 103., post, p. 450, 24 & 25 Vict. c. 97. s. 61., post, pp. 474-5, and 24 & 25 Vict. c. 99. s. 31., post, p. 509.

* The words "loose, idle, and disorderly persons" control the words "whom he shall have good cause to suspect," &c., *Bowditch v. Balchin*, 5 Exchequer Rep. 378.

67. It shall be lawful for any constable to stop and detain, until due inquiry can be made, all carts and carriages which he shall find employed in removing the furniture of any house or lodging between the hours of eight in the evening and six in the following morning, or whenever the constable shall have good grounds for believing that such removal is made for the purpose of evading the payment of rent.

Removing
furniture, to
evade rent.

See 11 Geo. 2. c. 19., post, p. 214.

68. Whenever any person having charge of any horse, cart, carriage, or boat, or any other animal or thing, shall be taken into the custody of any constable under the provisions of this act, it shall be lawful for any constable to take charge of such horse, cart, carriage, or boat, or such other animal or thing, and to deposit the same in some place of safe custody, as a security for payment of any penalty to which the person having had charge thereof may become liable, and for payment of any expenses which may have been necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any magistrate before whom the case shall have been heard to order such horse, cart, carriage, or boat, or such other animal or thing, to be sold, for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment of such penalty and reasonable expenses.

Horses, car-
riages, &c. of
offenders may
be detained.

69. Every person taken into custody by any constable belonging to the Metropolitan Police, without warrant, except persons detained for the mere purpose of ascertaining their name or residence, shall be forthwith delivered into the custody of the constable in charge of the nearest station house, in order that such person may be secured until he can be brought before a magistrate, to be dealt with according to law, or may give bail for his appearance before a magistrate, if the constable in charge deem it prudent to take bail in the manner herein-after mentioned.*

Persons appre-
hended without
warrant to be
taken to the
station house.

See foot note on s. 72.

70. Whenever any person charged with any offence of which he is liable to be summarily convicted before a magistrate, or with having carelessly done any hurt or

Power to take
recognizances
at station

* A policeman on duty at a police station is justified in detaining a person brought there in charge and delivered to him by a policeman, although such person may have been illegally arrested, as, for instance, where a person was arrested without warrant simply on a charge of perjury. *Bowditch v. Fosberry*, 19 Law Journal, 339, Exchequer.

houses on petty charges.

damage, shall be, without the warrant of a magistrate, in the custody of any constable of the Metropolitan Police in charge of any station house during the time when the police courts shall be shut, it shall be lawful for such constable, if he deem it prudent, to take the recognizance of such person, with or without sureties, conditioned as herein-after mentioned.

See foot note on s. 72.

Power to bind over persons making charges.

* Sic.

71. Whenever any person charged with any felony, or any misdemeanor punishable by transportation, or other grave misdemeanor, shall be, without warrant, in the custody of any constable of the Metropolitan Police at any station house during the time when the police courts shall be shut, it shall be lawful for the constable in charge of the station house to require the persons* making such charge to enter into a recognizance conditioned as herein-after mentioned, and upon his or her refusal so to do it shall be lawful for such constable, if he deem it prudent, to discharge from custody the person so charged, upon his or her recognizance, with or without sureties, conditioned as herein-after mentioned.

Condition of recognizance.

72. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a magistrate of the district in which such station house shall be situated at his next sitting, and the time and place of appearance shall be specified in the recognizance; and the constable shall enter in a book, to be kept for that purpose at every such station house, the name, residence, and occupation of the party, and his surety or sureties (if any), entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the magistrate present at the time and place when and where the party is bound to appear.*

See 3 & 4 Vict. c. 84. s. 8., post, p. 60.

* Sections 64. and 69. of 2 & 3 Vict. c. 47., taken in connexion with s. 75., seem to have been intended to supersede s. 7. of 10 Geo. 4. c. 44., and sections 70. and 72. of 2 & 3 Vict. c. 47., taken in connexion with s. 75., seem to have been intended to supersede s. 9. of 10 Geo. 4. c. 44., except the latter part of that section, beginning with the consequences of default of appearance. That part of s. 75. of 2 & 3 Vict. c. 47. (which extends the meaning of magistrate to any justice acting as there mentioned) having however been repealed by 3 & 4 Vict. c. 84. s. 1., it would seem that the term "magistrate" must be construed as relating to a police magistrate, and that as regards places not within certain police court divisions (see 3 & 4 Vict. c. 84. s. 8.) the provisions of 10 Geo. 4. c. 44. must be resorted to as before the passing of 2 & 3 Vict. c. 47., subject to the amendment made by 3 & 4 Vict. c. 84. s. 8. The above-mentioned sections of 10 Geo. 4. c. 44. are here set out.

73. For every misdemeanor or other offence against this act for which no special penalty is herein-before appointed the offender shall, at the discretion of the magistrate before whom the conviction shall take place, either be liable to a penalty not more than £5, or be imprisoned for any time not more than one calendar month in any gaol or house of correction within the jurisdiction of such magistrate.

Penalty for offences for which no penalty is appointed.

74. Nothing herein contained shall be construed to prevent any person from being indicted for any indictable offence made punishable on summary conviction by this act, or to prevent any person from being liable under any other act or acts to any other or higher penalty or punishment than is provided for such offence by this act, so

Not to prevent indictment, or repeal other acts containing penalties.

10 Geo. 4. c. 44. s. 7. It shall be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose, idle, and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find between sunset and the hour of eight in the forenoon lying in any highway, yard, or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended into the custody of the constable appointed under this act, who shall be in attendance at the nearest watch-house, in order that such person may be secured until he can be brought before a justice, to be dealt with according to law, or may give bail for his appearance before a justice, if the constable deem it prudent to take bail in the manner herein-after mentioned.

10 Geo. 4. c. 44. s. 9. Where any person charged with any petty misdemeanor shall be brought, without the warrant of a justice, into the custody of any constable appointed under this act, during his attendance in the night-time at any watch-house within the Metropolitan Police District, it shall be lawful for such constable, if he deem it prudent, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination before a justice of the peace, at some place to be specified in the recognizance, at the hour of 10 in the forenoon next after such recognizance shall be taken, unless that hour fall on a Sunday, or on Christmas Day or Good Friday, and in that case at the like hour on the succeeding day; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a justice; and the constable shall enter in a book to be kept for that purpose in every watch-house the names, residence, and occupation of the party and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable, and shall return the same to the next general or quarter sessions, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter is heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward.

nevertheless that no person be punished twice for the same offence.

Meaning of the word "magistrate."

75. In the construction of this act the word "magistrate" shall be taken to mean and include every justice of the peace appointed to be a magistrate of the police courts of the metropolis, and also every justice of the peace acting in and for any part of the Metropolitan Police District for which no police court shall be established.

The words after "metropolis" are repealed by 3 & 4 Vict. c. 84. s. 1., post, p. 58.

Interpretation Clause.

78. [Any word denoting the singular number or the male sex to extend to any number of persons or things and to both sexes.]

79. [Act to be construed with 10 Geo. 4. c. 44.]

See 2 & 3 Vict. c. 71. s. 55., post, p. 58.

Provisions of 10 Geo. 4. c. 44, as to Procedure for Penalties, &c.

Procedure in case of offences punishable on summary conviction under this Act.

36. [Where any person is charged on the oath of a credible witness with any offence punishable upon summary conviction under this act before any justice, the justice may summon the person charged to appear before two justices; and if the person charged do not appear accordingly, then (upon proof of the due service of the summons by delivering a copy to such person, or by such delivery to the wife or servant or some inmate of the family of such person at his usual place of abode), the justices before whom he was to have appeared may proceed to hear and determine the case *ex-parte*, or may issue their warrant for apprehending such person and bringing him before them; the prosecution for any offence punishable upon summary conviction by virtue of this act to be commenced within three calendar months after commission of the offence.]

Limitation of time.

This enactment seems superseded or virtually repealed as to proceedings before metropolitan police magistrates, except as to the time limited for taking proceedings, by 2 & 3 Vict. c. 71. ss. 19-21. 44., post, pp. 44, 45, 54; see also 2 & 3 Vict. c. 47. s. 76., post, p. 41. As to other justices see 3 & 4 Vict. c. 84. s. 6., post, p. 59.

37. [Penalties for offences against this act to be paid to the Receiver to be applied for police purposes; justices not disabled from acting by reason of liability to rates.]

See as to the penalties recovered before police magistrates 2 & 3 Vict. c. 47. s. 77., post, p. 42, and 2 & 3 Vict. c. 71. s. 47., post, p. 56. As to other justices see 3 & 4 Vict. c. 84. s. 6., post, p. 59.

38. [Penalties may be adjudged to be paid immediately, or within a certain period; scale of imprisonment for non-payment of penalties—not exceeding two calendar months for not exceeding £5—not exceeding four calendar months for not exceeding £10—and not exceeding six calendar months in any other case; imprisonment to cease on payment.]

See as to penalties recovered before police magistrates 2 & 3 Vict. c. 47. s. 77., post, p. 41, and c. 71. s. 45., post, p. 55. The scale of imprisonment provided by those enactments, differs from the above; the acts are all to be read together (2 & 3 Vict. c. 47. s. 79. and c. 71. s. 55.) As to other justices see 3 & 4 Vict. c. 84. s. 6., post, p. 59.

39. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., post, p. 56., and 3 & 4 Vict. c. 84. s. 8., post, p. 60.

40. [No certiorari; informality in warrants, &c.]

See as to police magistrates 2 & 3 Vict. c. 71. ss. 49. 51., post, pp. 56, 57; as to other justices 3 & 4 Vict. c. 84. s. 6., post, p. 59.

41. And for the protection of persons acting in the execution of this act,

All actions and prosecutions to be commenced against any person for anything done in pursuance of this act* shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed† and not otherwise; and notice in writing of such action, and of the cause thereof,‡ shall be

Venue in proceedings against persons acting under this act; notice of action; general issue; tender of amends, &c.

* "These words do not mean acts done in strict pursuance of the act because in such a case a party would be acting legally, and therefore would not require protection. The words, therefore, must be qualified by the decisions, and then the meaning will be that a party to be entitled to protection must bona fide and reasonably believe himself to be authorized by the act." Per Parke, B., in *Hughes v. Buckland*, 15 Meeson and Welsby's Rep. 355, 356. See also 2 Chitty's Collection of Statutes, (2d ed.) 710, note (c).

† In computing the six months the day of committing the fact is to be excluded. *Hardy v. Ryle*, 9 Barnewall and Cresswell's Rep., p. 603.

‡ A notice omitting the time and place of the act complained of is insufficient. *Breese v. Jerdein*, 4 Queen's Bench Rep., 585.

given to the defendant one calendar month* at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

See 2 & 3 Vict. c. 71. ss. 52, 53., post, p. 57; † see also 5 & 6 Vict. c. 97. post, p. 413, and 15 & 16 Vict. c. 76. (Common Law Procedure Act) s. 70.

Action not to be brought against any constable acting in obedience to justice's warrant, till demand made of the copy of the warrant and refusal thereof, &c.

[24 Geo. 2. c. 44. s. 6. No action shall be brought against any constable, headborough, or other officer, or against any person or persons acting by his order and in his aid, for any thing done in obedience to any warrant under the hand or seal of any justice, until demand hath been made or left at the usual place of his abode, by the party or parties intending to bring such action, or by his, her, or their attorney or agent, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for the space of six days after such demand; and in case after such demand, and compliance therewith, by showing the said warrant to, and permitting a copy to be taken thereof by the party demanding the same, any action shall be brought against such constable, headborough, or other officer, or against such person or persons acting in his aid, for any such cause as aforesaid, without making the justice or justices who signed or sealed the said warrant defendant or defendants, on producing or proving such warrant at the trial of such action, the jury shall give their verdict for the defendant or defendants, notwithstanding any defect of jurisdiction in such justice or justices; and if such action

* The day of giving the notice and that of suing out the writ are both to be excluded. *Young v. Higgon*, 6 Meeson and Welsby's Rep., 49.

† The time limited by 2 & 3 Vict. c. 71. s. 53. for bringing actions for acts done thereunder is only three months, and that is the enactment applicable to actions against metropolitan police magistrates, or against justices acting under 3 & 4 Vict. c. 84. s. 6. *Hazeldine v. Grove*, 3 Queen's Bench Rep., 997. *Barnett v. Cox*, 9 Queen's Bench Rep., 617.

be brought jointly against such justice or justices, and also against such constable, headborough, or other officer, or person or persons acting in his or their aid as aforesaid, then, on proof of such warrant, the jury shall find for such constable, headborough, or other officer, and for such person or persons so acting as aforesaid, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict shall be given against the justice or justices, in such case the plaintiff or plaintiffs shall recover his, her, or their costs against him or them, to be taxed in such manner by the proper officer, as to include such costs as such plaintiff or plaintiffs are liable to pay to such defendant or defendants for whom such verdict shall be found as aforesaid.

s. 8. Provided also, that no action shall be brought against any justice for anything done in the execution of his office, or against any constable, headborough, or other officer or person acting as aforesaid, unless commenced within six calendar months after the act committed.* Limitation of actions.

The 26 Geo. 2. c. 44. is repealed as to actions against justices by 11 & 12 Vict. c. 44. s. 17.]

Provisions of 2 & 3 Vict. c. 47. as to Procedure for Penalties.

76. [Magistrate empowered summarily to convict any person charged with any offence against this act on the oath of one or more witnesses, or by his own confession, and to award penalty or punishment; the matter of complaint to be heard and determined by a metropolitan police magistrate at one of the police courts, or if offence committed or offender apprehended in any part of the Metropolitan Police District for which no police court is established, complaint may be also heard and determined by two or more justices acting in and for the county in which offence committed or offender apprehended.] Offences, how to be tried.

The words after " police courts " are repealed by 3 & 4 Vict. c. 84. s. 1., post, p. 58.: See s. 6. of that act, post, p. 59., and 2 & 3 Vict. c. 71. ss. 44., 55, post, pp. 54, 58.

77. [In every case of the adjudication of a pecuniary penalty or amends under this act and nonpayment thereof, magistrate may commit the offender for not more than one calendar month where the sum to be paid does not exceed £5; imprisonment to cease on payment of the sum due and costs; so much of such penalty as is not awarded to the informer or other persons who have contributed to the con- If penalty not paid, offender may be committed.

Application of penalty.

* See note (†) ante, p. 39.

viction to be paid to the Receiver for the purposes of this act, and the residue under the direction of the magistrate to be paid to the informer alone, or such persons as have contributed to the conviction as such magistrate thinks fit.]

See 2 & 3 Vict. c. 41. s. 45., post, p. 55., and 3 & 4 Vict. c. 84. s. 6., post, p. 59., which seem to supersede that portion of this section which relates to imprisonment; and see 2 & 3 Vict. c. 71. s. 47., post, p. 56.

POLICE COURTS, METROPOLIS.

2 & 3 VICT. c. 71.*

Continuance of the police courts and police Magistrates.

1. [The several police courts established under the names of the public office in Bow Street, and the police offices in the parishes of Saint Margaret Westminster, Saint James Westminster, Saint Marylebone, Saint Andrew Holborn, Saint Leonard Shoreditch, Saint Mary Whitechapel, and Saint John Wapping, in the County of Middlesex, and Saint Saviour in the County of Surrey, to be continued, and the persons appointed to execute the duties of a justice at the said courts to continue to execute the same there, and to be justices of Middlesex, Surrey, Kent, Essex, and Hertfordshire, the city and liberty of Westminster, and the liberty of the tower of London, and Magistrates of the said courts during Her Majesty's pleasure.†]

Her Majesty in Council may alter number and situation of courts, &c.
Limiting number of Magistrates.

2. [Her Majesty, with advice of Privy Council, may alter number of police courts, and of Magistrates appointed to any of said courts, and order changes of the places of holding same within the Metropolitan Police District: Provided always, that there shall not at any time be more than 27 such Magistrates.]

See 3 & 4 Vict. c. 84. ss. 2. 5., post, p. 59., and Appendix D.

3. [Vacancies to be supplied by Her Majesty from barristers; Magistrates need not have any qualification by estate; and to take oath of justices, except as to qualification.]

See 21 & 22 Vict. c. 73. ss. 13, 14., post, p. 63.

4. [Magistrates and officers of courts exempt from serving on juries.]

* See 3 & 4 Vict. c. 84. post, p. 58.

† The chief magistrate of the police court at Bow Street is to be a justice for Berks, if his name be in the commission of peace for that county, without qualification by estate; 11 & 12 Vict. c. 42. s. 31.

5. [Appointment of clerks, ushers, door-keepers, and messengers; ushers, door-keepers, and messengers to be sworn as constables, but only to act as such within the courts and their precincts, unless for protection of Magistrates or persons resorting to the court, or when sworn as special constables.]

See 3 & 4 Vict. c. 84. s. 7.

6. [No Magistrate or officer of the courts to vote, &c. at certain elections.]

7. [Receiver of Metropolitan Police to be Receiver under this act.]

8. [Extension of 10 Geo. 4. c. 44. to duties of Receiver under this act.]

9. [Salaries of Magistrates, Receiver, clerks, and officers.]

See 18 & 19 Vict. c. 126. s. 19.

10. [Issue from the consolidated fund towards the expenses of this act.]

See 17 & 18 Vict. c. 84.

11. [One of the said Magistrates shall attend at each of the police courts on every day except Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving, from ten until five; and at such other times as urgent necessity may require, or shall be directed by the Secretary of State.]

Varied by 3 & 4 Vict. c. 84. ss. 3, 4., post, p. 59.

12. *For the existing metropolitan police courts, the divisions assigned to them, and the times of attendance of Magistrates therein, see Appendix (D.)*

13. Where by any law now in being, or by any act not containing an express enactment to the contrary hereafter to be made, any act is directed or authorized to be done by any justice or justices of the peace belonging to any of the said offices, or by any justice or justices residing in or near or next the parish or place where any offence or other matter cognizable before him or them shall be committed or shall arise, the same jurisdiction may be exercised by one of the said Magistrates in any of the said courts.

Time of attendance of Magistrates.

Acts directed to be done by neighbouring justice may be done by any of the said Magistrates.

14. It shall be lawful for any one of the said Magistrates appointed or hereafter to be appointed to do alone any act at any of the said courts, or at any place where Her Majesty shall order any such court to be holden within the limits of

One Magistrate may do any act directed to be done by

more than one justice ;

except at certain sessions.

the Metropolitan Police District for the time being, which by any law now in force, or by any law not containing an express enactment to the contrary hereafter to be made, is or shall be directed to be done by more than one justice : Provided always, that none of the said Magistrates shall be competent to act as a justice, either alone or with any other justice or justices, in anything which is to be done at a special or petty session of all the justices acting in the division, or by the justices of any of the said counties or liberties in quarter session assembled.

15. [Magistrates to meet quarterly for reporting to Secretary of State.]

16. [Secretary of State may make rules for conducting the business of the courts.]

Process in respect of matters arising within the Metropolitan Police District need not be endorsed. *

17. Every warrant to compel the appearance of any person or warrant for the apprehension of any person charged with any offence, issued by any of the said Magistrates, in respect of any matter arising within the Metropolitan Police District, may be served or executed out of the Metropolitan Police District by the constable or constables to whom the same shall be directed, and shall have the same force and effect as if the same had been originally issued or subsequently endorsed by a justice or justices having jurisdiction in the place where the same shall be served or executed.

Summons for a person residing within Metropolitan Police District to appear at any place without the district void.

18. Every summons or warrant issued by any justice of the counties of Middlesex, Surrey, Kent, Essex, or Hertfordshire respectively, requiring any person residing within the Metropolitan Police District to appear at any place without the said district to answer any information or complaint touching any matter arising within the said district, shall be utterly void, except for the purpose of enforcing payment of any rates or taxes, levied within any parish or place, part only of which is within the Metropolitan Police District.

Amended by 21 & 22 Vict. c. 73. s. 6., post, p. 62.

Magistrates may proceed by summons, and if party summoned does not appear may issue warrant.

19. Upon any information or complaint to be laid or made before any Magistrate of the said courts of any matter which such Magistrate is authorized to hear and determine summarily, the Magistrate may summon the party charged, and if such party shall not appear, according to the tenor of the summons, any one of the said Magistrates,

* As to the execution in Scotland, Ireland, or the Channel Islands, of English warrants, and vice versa, see 11 & 12 Vict. c. 42. ss. 12-15, *post*, pp. 343-346, 11 & 12 Vict. c. 43. s. 3., *post*, p. 347, 14 & 15 Vict. c. 53. s. 18., *post*, p. 342, and 14 & 15 Vict. c. 93., *post*, p. 347.

upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the party, to hear and determine the case in the absence of the party, and in all criminal cases shall issue his warrant for apprehending and bringing such party before him, or some other Magistrate, in order that the said information or complaint may be heard and determined.

See 10 Geo. 4. c. 44. s. 36., ante, p. 38., and the note thereon.

20. Every such summons may be served by delivering a copy of the summons to the party, or by delivering a copy of the summons to the wife or servant or some adult inmate of the family of the party at his usual place of abode, and explaining the purport thereof to such wife, servant, or inmate.

How summons may be served.

21. Every such Magistrate may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him whenever good grounds for so doing shall be stated on oath before him.

Warrant for apprehension may be issued without summons.

22. Any such Magistrate may summon any witness to appear and give evidence before him upon the matter of any offence cognizable before such Magistrate with which any person is charged before him, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal may require any person to be brought before him who shall neglect or refuse to appear to give evidence at the time and place appointed in such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted; and such Magistrate may commit any person coming or brought before him, who shall refuse to give evidence, to any house of correction within the Metropolitan Police District, for not exceeding 14 days or until such person shall sooner submit himself to be examined; and in case of such submission the order of any such Magistrate shall be a sufficient warrant for the discharge of such person.

Magistrates may enforce attendance of witnesses.

23. [Persons giving false evidence liable to the penalties of perjury.]

24. Every person who shall be brought before any of the said Magistrates charged with having in his possession or

Persons suspected of

having or conveying stolen goods.

conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained, and who shall not give an account to the satisfaction of such Magistrate how he came by the same, shall be deemed guilty of a misdemeanor, and be liable to a penalty of not more than £5, or, in the discretion of the Magistrate, may be imprisoned in any gaol or house of correction within the Metropolitan Police District, with or without hard labour, for not exceeding two calendar months.

Amended by 21 & 22 Vict. c. 73. s. 7., post, p. 63. See also 24 & 25 Vict. c. 96. ss. 14, 22, 35, 65, 66, post, pp. 418, 421, 427, 435, and 24 & 25 Vict. c. 110. s. 4., post, p. 323.

In case of information given that there is reasonable cause for suspecting that any goods have been unlawfully obtained and are concealed, search warrant may be issued.

25. If information be given on oath to any of the said Magistrates that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling house or any other place, it shall be lawful for such Magistrate, by special warrant under his hand directed to any constable, to cause every such dwelling house or other place to be entered and searched at any time of the day, or by night if power for that purpose be given by such warrant; and the said Magistrate, if it appear to him necessary, may empower such constable, with such assistance as may be found necessary, such constable having previously made known such his authority, to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made any such thing be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety, and moreover to take into custody and carry before the said Magistrate every person found in such house or place who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

See also 39 & 40 Geo. 3. c. 99. ss. 12, 13, post, pp. 228-231, 24 & 25 Vict. c. 96. s. 103., post, p. 450, and 24 & 25 Vict. c. 110. s. 4., post, p. 323.

Party from whom stolen goods are received to be examined by the Magistrate.

26. When any person shall be brought before any such Magistrate charged with having or conveying anything stolen or unlawfully obtained, and shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, such Magistrate is hereby authorized and required to cause every such person, and also, if necessary, every former or pretended purchaser, or other person through whose possession the same has passed, to be

brought before him and examined, and to examine witnesses upon oath touching the same; and if it appear to such Magistrate that any person has had possession of such thing and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of a misdemeanor, and to have had possession of such thing at the time and place when and where the same shall have been found or seized; *and the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who shall have employed such other person to convey the same,* and shall be liable to a penalty of not more than £5, or, in the discretion of the Magistrate, may be imprisoned in any gaol or house of correction within the Metropolitan Police District, with or without hard labour, for not exceeding three calendar months.

See also 24 & 25 Vict. c. 96. s. 14., post, p. 419.

27. If any goods be stolen or unlawfully obtained from any person, or, being lawfully obtained, be unlawfully deposited, pawned, pledged, sold, or exchanged, and complaint be made thereof to any of the said Magistrates, and that such goods are in the possession of any broker, dealer in marine stores, or other dealer in second-hand property, or of any person who has advanced money upon the credit of such goods, within the Metropolitan Police District, it shall be lawful for such Magistrate to issue a summons or warrant for the appearance of such broker or dealer; and for the production of the goods, and to order such goods to be delivered up to the owner thereof, either without any payment, or upon payment of such sum and at such a time as the Magistrate shall think fit; and every broker or dealer who, being so ordered, shall refuse or neglect to deliver up the goods, or who shall dispose of or make away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of the goods the full value thereof, to be determined by the Magistrate: Provided always, that no such order shall bar any such broker or dealer from recovering possession of such goods by suit or action at law from the person into whose possession they may come by virtue of the Magistrate's order, so that such action be commenced within six calendar months next after such order shall be made.

Power to order delivery of goods stolen or fraudulently obtained, and in possession of brokers and other dealers in second-hand property.†

See also 39 & 40 Geo. 3. c. 99. ss. 12-16., post, pp. 228-234., 17 & 18 Vict. c. 104. s. 480., post, p. 318., 24 & 25 Vict. c. 110. s. 4., post, p. 323, and 24 & 25 Vict. c. 96. ss. 22. 65, 66, post, pp. 421, 435.

* The words between the asterisks appear to have been improperly inserted in this place, they must, it would seem, be read parenthetically.

† By 1 Jac. 1. c. 21. s. 5. no sale, exchange, pawn, or mortgage of any

For removing doubts as to ordering the restoration of property unlawfully pawned, &c.

28. And whereas doubts have arisen whether goods unlawfully deposited, pledged, pawned, or exchanged may be restored to the owner in cases of summary conviction, or where the goods are produced without the issue of any search warrant:

It shall be lawful for any Magistrate to order that any goods unlawfully pawned, pledged, or exchanged, which shall be brought before him, and the ownership of which shall be established to the satisfaction of such Magistrate, shall be delivered up to the owner by the party with whom they were so unlawfully pawned, pledged, or exchanged, either without compensation, or with such compensation to the party in question as the Magistrate may think fit.

Power to order delivery of possession of goods charged to have been stolen or fraudulently obtained, and in custody of constable.

29. If any goods or money charged to be stolen or fraudulently obtained be in the custody of any constable by virtue of any warrant of a justice, or in prosecution of any charge of felony or misdemeanor in regard to the obtaining thereof, and the person charged with stealing or obtaining possession as aforesaid be not found, or have been summarily convicted or discharged, or have been tried and acquitted, or if such person have been tried and found guilty, but the property so in custody has not been included in any indictment upon which he has been found guilty, it shall be lawful for any Magistrate to make an order for the delivery of such goods or money to the party who appears to be the rightful owner thereof, or in case the owner cannot be ascertained, then to make such order with respect to such goods or money as to such Magistrate shall seem meet: Provided always, that no such order shall be any bar to the right of any person or persons to sue the party to whom

goods whatsoever that shall be wrongfully or unjustly purloined, taken, robbed, or stolen, and which shall be sold, uttered, delivered, exchanged, pawned, or done away, within the city of London or liberties thereof, or within the city of Westminster, or within Southwark, or within two miles of the said city of London, to any broker or brokers, or pawn-takers, by any means whatsoever, shall work or make any change or alteration of the property or interest of and from any person or body politic from whom the same goods were wrongfully purloined, taken, robbed, or stolen.

By s. 7. of the same act, if any person or bodies politic from whom any goods whatsoever shall be wrongfully purloined, &c. shall require and demand of any such broker or pawn-taker to declare whether any such goods be come to his or their possessions and to declare, show, and manifest the same, and how and by what means he had them, or came by the same, and how, when, and to whom he hath delivered, conveyed, or bestowed and employed the same, and such broker, upon any such request and demand, shall deny and refuse to disclose, tell, or manifest the same truly and justly,* shall forfeit unto the true owner of such goods from whom the same were wrongfully purloined, &c. double the value thereof that shall be denied and refused to be disclosed, told, and manifested as aforesaid, the same double value to be recovered by action of debt, bill, or plaint in any of the King's Courts of Record at Westminster, or within the city of London.

* Sic.

such goods or money shall be delivered, and to recover such goods or money from him, by action at law, so that such action shall be commenced within six calendar months next after such order shall be made.

30. When any goods or money charged to be stolen or unlawfully obtained, and of which the owner is unknown, shall be ordered by any Magistrate to be delivered to the Receiver of the Metropolitan Police Force, it shall be lawful for the Receiver, after the expiration of 12 calendar months, during which no owner has appeared to claim the same, to sell or dispose of such goods or money for the benefit of the superannuation fund of the Police of the Metropolis.

Unclaimed stolen goods delivered to the Receiver may be sold after 12 months.

31. It shall be lawful for any Magistrate who shall hear and determine any charge or complaint, whether or not a warrant or summons has been issued in consequence of such charge or complaint, to award such costs as to him shall seem meet to be paid to or by either of the parties to the said charge or complaint.

Power to award costs on hearing of charges.

32. In every case in which any information or complaint of any offence is laid or made before any of the said Magistrates, and is not further prosecuted, or in which, if further prosecuted, it appears to the Magistrate by whom the case is heard that there was no sufficient ground for making the charge, the Magistrate shall have power to award such amends, not more than the sum of £5, to be paid by the informer to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate shall seem meet.

Amends may be awarded for frivolous informations.

33. In case any person lodge any information before any of the said Magistrates for any offence alleged to have been committed by which he was not personally aggrieved, and afterwards directly or indirectly receive, without the permission of one of the said Magistrates, money or other reward for compounding, delaying, or withdrawing the information, it shall be lawful for any one of the said Magistrates to issue his warrant or summons, as he may deem best, for bringing before him the party charged with the offence of such compounding, delay, or withdrawal; and if such offence be proved by the confession of the party, or by the oath of any credible witness, such informer shall be liable to a penalty not more than £10.

Penalty on common informers for compounding informations.

See also 3 & 4 Vict. c. 84. s. 11., post, p. 61.

Power to lessen
the share of
informers.

34. Where by any act now in force or hereafter to be passed a moiety or other fixed portion of the penalty or penalties thereby imposed is or shall be directed to be paid to the informer, not being the party aggrieved, it shall be lawful for any one of the said Magistrates before whom the conviction shall be had to adjudge that no part or such part only of the penalty as he shall think fit shall be paid to the informer.

Power to
mitigate
penalties.

35. Where by any act now in force or hereafter to be passed a limited penalty or term of imprisonment is imposed on conviction of an offender before a justice or justices of the peace, it shall be lawful for any one of the said Magistrates before whom such conviction shall be had to reduce or lessen such penalty or term of imprisonment in such manner as he may think fit: Provided always, that no penalty for the infringement of any act relating to the revenue of customs or excise, stamps or taxes, shall be reduced by any such Magistrate below the amount or proportion allowed in that behalf by the act or acts specially relating thereunto without the consent of the commissioners of customs or excise or stamps and taxes respectively.

Proviso as to
revenue acts.

Power to
remand or
enlarge pri-
soners on
recognizances.

36. Any one of the said Magistrates, if he think fit, may remand any person for further examination, or may suffer to go at large any person charged before him with any felony or misdemeanor upon his personal recognizance (with or without sureties); and every such recognizance shall be conditioned for the appearance of such person before the same or some other of the said Magistrates, for further examination, or to surrender himself to take his trial at the Central Criminal Court, or at a court of general or quarter sessions, at a day and place to be therein mentioned; and the Magistrate shall be at liberty from time to time to enlarge every such recognizance to such further time as he shall appoint; and every such recognizance which shall not be enlarged shall be discharged, without fee or reward, when the party has appeared according to the condition thereof: Provided always, that whenever any Magistrate shall take the recognizance of any person to appear at the Central Criminal Court, or at a court of general or quarter sessions, the Magistrate shall be bound to return the depositions taken in the case, and to bind over the witnesses to appear and give evidence, in like manner as if he had committed the party to take his trial at such court.

Extended by 3 & 4 Vict. c. 84. s. 9., post, p. 60.

37. All differences, complaints, and disputes which happen between bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coalwhippers, coalporters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers who work for hire in or upon the Thames, or the docks, creeks, wharfs, quays, or places adjacent, not being in the city of London or the liberties thereof, and the owners, masters, or commanders of vessels, or their agents, on the said river, or the docks or creeks thereunto adjoining, or the owners, wharfingers, or occupiers of such wharfs or quays, or their agents or other employers, respecting wages or money due to such labourers for work or loss of time, whether the same persons be employed for any certain time or in any other manner, may be heard and determined by any of the said Magistrates; and every such Magistrate is hereby empowered to examine upon oath any such labourer as aforesaid; or any other witness or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages or money to such labourer as to the Magistrate shall seem just; provided that the sum ordered do not exceed £5, besides all reasonable costs attending the prosecution of the complaint.

Disputes about wages for labour done on the river, &c. (except by Trinity ballastmen) to be settled by Magistrates, provided the sum in question does not exceed £5.

38. Every person who shall occupy or shall have occupied any house or lodging within the Metropolitan Police District as tenant thereof, and who shall wilfully or maliciously do any damage to the premises, or to any furniture thereof not being the property of such tenant or occupier, shall, upon complaint made to one of the said Magistrates within one calendar month next after the commission of the offence or the end of the tenancy or occupation, forfeit and pay such sum as shall appear to the Magistrate to be a reasonable compensation for the damage done, not more than the sum of £15, to be paid to the landlord or party aggrieved.

Power to order compensation for wilful damage by tenants.

See 18 & 19 Vict. c. 126. s. 22., post, p. 383; see also 24 & 25 Vict. c. 97. s. 13., post, p. 458.

39. On complaint made to any of the said Magistrates by any person who shall, within the Metropolitan Police District, have occupied any house or lodging by the week or month, or whereof the rent does not exceed the rate of £15 by the year, that his goods have been taken from him, by an unlawful distress, or that the landlord, or his broker or agent, has been guilty of any irregularity or excess in respect of such distress, it shall be lawful for such Magistrate to summon the party complained against, and if upon the

Power to deal summarily with cases of oppressive distresses.

hearing of the matter it appear to the Magistrate that such distress was improperly taken, or unfairly disposed of, or that the charges made by the party having distrained or having attempted to distrain are contrary to law, or that the proceeds of the sale of such distress have not been duly accounted for to the owner thereof, it shall be lawful for the Magistrate to order the distress so taken, if not sold, to be returned to the tenant on payment of the rent which shall appear to be due at such time as the Magistrate shall appoint, or if the distress have been sold, then to order payment to the said tenant of the value thereof, deducting thereout the rent which shall so appear to be due, such value to be determined by the Magistrate; and such landlord or party complained against, in default of compliance with any such order, shall forfeit to the party aggrieved the value of such distress, not being greater than £15, such value to be determined by the Magistrate.

See first reference in note on s. 38. supra.

Power to order delivery of goods unlawfully detained to the owner.

40. Upon complaint made to any of the said Magistrates by any person claiming to be entitled to the property or possession of any goods which are detained by any other person within the limits of the Metropolitan Police District, the value of which shall not be greater than £15, and not being deeds, muniments, or papers relating to any property of greater value than £15, it shall be lawful for such Magistrate to summon the person complained of, and to inquire into the title thereto or to the possession thereof, and if it appear to the Magistrate that such goods have been detained without just cause, after due notice of the claim made by the person complaining, or that the person detaining such goods has a lien or right to detain the same by way of security for the payment of money, or the performance of any act by the owner thereof, it shall be lawful for such Magistrate to order the goods to be delivered to the owner thereof, either absolutely or upon tender of the amount appearing to be due by such owner (which amount the Magistrate is hereby authorized to determine), or upon performance or upon tender and refusal of the performance of the act for the performance whereof such goods are detained as security, or if such act cannot be performed, then upon tender of amends for non-performance thereof (the nature or amount of which amends the Magistrate is hereby authorized to determine); and every person who shall neglect or refuse to deliver up the goods according to such order shall forfeit to the party aggrieved the full value of such goods, not

greater than the sum of £15, such value to be determined by the Magistrate; Provided always, that no such order shall bar any person from recovering possession of the goods or money so delivered or forfeited, by suit or action at law, from the person to whose possession such goods or money shall come by virtue of such order, so that such action be commenced within six calendar months next after such order shall be made.

See first reference in note on s. 38. supra.

41. If the guardians of the poor of any union or parish, or the churchwardens and overseers of the poor of any parish, within the Metropolitan Police District, together with the medical officer for any such parish or union, shall be of opinion, and shall certify under the hands of two or more of such guardians, churchwardens, or overseers, and also of such medical officer, that any house or part of any house within such union or parish is in such filthy and unwholesome condition that the health of the inmates or of the public is thereby affected or endangered, it shall be lawful for any Magistrate acting within the district in which such union or parish is situate, if he think fit, to cause notice to be affixed on the door or other conspicuous part of such house, requiring the occupier or occupiers of such house or part thereof to appear before him to answer such complaint, or to cause the same to be cleansed within seven days from the date of affixing such notice; and if within the said seven days such house or part thereof shall not be cleansed to the satisfaction of such medical officer, and if such occupier or occupiers being duly summoned shall not appear before the Magistrate, and show sufficient cause to the contrary, such Magistrate is hereby empowered, on proof thereof, to issue an order under his hand and seal to the guardians of the poor or the churchwardens and overseers aforesaid to cause such house or part thereof to be cleansed, at the expense of such occupier or occupiers, and to cause the amount thereof to be levied, in case of nonpayment, by distress and sale of the goods and chattels of such occupier or occupiers, by warrant under the hand and seal of such Magistrate.

In case any house be in a filthy and unwholesome condition, the Magistrate may order the same to be cleansed.

See 18 & 19 Vict. c. 121., post, p. 264.

42. [Neither any justice for any of the said counties, or for the city and liberty of Westminster, or liberty of the tower of London, not being one of the said Magistrates, nor the clerk of any such justice, nor any person on his behalf, to take any fee or recompence for any act done as justice or clerk as aforesaid within any part of the Metro-

No other justice shall take fees within any part of the Metropolitan Police District for which a police court is established.

politan Police District for which a police court is established under a penalty, £100 ; this enactment not to extend to fees taken at general or quarter sessions, or at any meeting for licensing alehouses, or for inquiring into the legal settlement of any person applying for parochial relief, and making suspended orders of removal, or to fees taken at special or petty sessions in respect of business which must be transacted at such special or petty sessions, or to certain fees taken by any vestry clerk, or by the clerk to the overseers of any parish.]

Fees to be
taken in Police
Courts.

43. [But fees in the Schedule (A.) may be taken by any of the said Magistrates or by any justice or justices acting in any of the said courts ; a table of such fees to be fixed in some conspicuous part of each of the said courts ; any of the said Magistrates may refuse to do any act for which any fee is demandable unless such fee be first paid ; and if any such act be done, and the fee due thereon be not paid, any of the said Magistrates may summon the person from whom such fee is due, and make order for payment of the same, with cost of the proceedings, and in default of payment levy the same, with costs of distress, by warrant under his hand.]

Proceedings on
information
before Magis-
trates.

44. All offences committed within the limits of the Metropolitan Police District, which under this or any other act are punishable on summary conviction before a justice or justices, may be heard and determined by any of the said Magistrates sitting at one of the said police courts, in a summary way, within six calendar months at the farthest next after the commission of such offence, or within such shorter time as shall be limited by the act specifying the offence, and not afterwards, whether or not any information in writing has been exhibited or taken by or before such Magistrate ; and all such proceedings by summons without information in writing shall be as valid and effectual as if an information in writing had been first exhibited in that behalf: Provided always, that a note or memorandum in writing, according to a form to be approved by the Secretary of State, shall be made and kept in the court of the substance of every charge for which a summons or warrant shall be issued: Provided also, that the Magistrate, if he think fit, may require an information in writing to be laid in every case in which it seems to him to be expedient, before the matter of the complaint or charge is brought before him ; and the Magistrate shall examine into the matter of every complaint or charge

brought before him, and if upon the confession of the party accused, or on the oath of any one or more witnesses, the party accused be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty as to the Magistrate shall seem fit, not more than the greatest penalty made payable in respect of such offence, together with the costs of conviction, to be ascertained by such Magistrate.

45. All penalties, forfeitures, and other sums imposed, awarded, or ordered to be paid by any Magistrate continued or appointed under this act, and all sums which any person is bound to pay under any recognizance taken before a Magistrate, and afterwards forfeited, in case of nonpayment thereof, may be levied, with the costs of such proceedings on nonpayment, by distress and sale of the goods and chattels of the offender or person liable to pay the same, by warrant under the hand of such Magistrate, and the overplus (if any) of the money so raised or recovered, after discharging, with costs, the penalty, forfeiture, or sum ordered to be paid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained; and in case any such penalty, forfeiture, or sum be not forthwith paid, it shall be lawful for such Magistrate to order the party to be detained in safe custody until return can be conveniently made to such warrant of distress, unless such party give security, to the satisfaction of the Magistrate, for his appearance at such place and time, not being more than seven days from the time of such detention, as shall be appointed for the return of the warrant of distress, and the Magistrate is hereby empowered to take such security by way of recognizance or otherwise; but if upon the return of such warrant it appear that no sufficient distress could be had whereupon to levy the said penalty, forfeiture, or sum of money, and the same be not forthwith paid, or in case it appear to the satisfaction of the Magistrate, upon the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such penalty, forfeiture, or sum could be levied if a warrant of distress should be issued, it shall be lawful for the Magistrate, by warrant under his hand, to commit such party to some common gaol or house of correction within his jurisdiction, there to remain for not more than one calendar month where the sum to be paid does not exceed £5, and not more than three calendar months in any case, the imprisonment to cease on payment of the sum due.

Recovery of
penalties and
forfeitures.

Fees and forfeitures, how to be accounted for and applied.

46. [Accounts to be kept of all fees and forfeitures received, and delivered quarterly to the Receiver, and the amount thereof paid to him to be applied towards the expenses of the said courts, except fines imposed upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, which shall be applied for the benefit of "The Police Superannuation Fund," and except also fees for the execution of summonses and warrants, which shall be applied towards defraying the charge of maintaining the Police of the Metropolis.]

Certain penalties and forfeitures recovered to be paid to the Receiver.

47. Where by any act or acts any penalties or forfeitures, or shares of penalties or forfeitures, are or shall hereafter be made recoverable in a summary manner before any justice or justices, and by such act or acts the same are or shall be limited and made payable to Her Majesty, or to any body corporate, or to any person or persons whomsoever, save the informer who shall sue for the same, or any party aggrieved, the same, if recovered or adjudged before any of the said Magistrates, shall be recovered for and adjudged to be paid to the said Receiver;* but this enactment shall not extend to penalties or forfeitures under any act relating to the customs, or to trade or navigation, and sued for by the direction of the commissioners of Her Majesty's customs, which shall be paid to such person as the said commissioners shall direct to receive the same.

Not to extend to penalties under customs acts.

Forms of information and conviction.

48. [Magistrate may cause information and conviction to be drawn up according to the forms in Schedule (B.) or any other forms to the same effect, as the case may require; this enactment not to invalidate any information or conviction laid or drawn in any other form more specially suited to the case or provided by law; and in any information in writing, and in every conviction for an offence contrary to any statute, the offence may be stated in the words of the statute declaring the offence or attaching any penalty thereunto.]

See 3 & 4 Vict. c. 84. s. 8., post, p. 60.

49. [Information, conviction, &c. not to be quashed for informality or removed by certiorari.]

Appeal to quarter sessions.

50. [In every case of summary order or conviction before any of the said Magistrates, in which the sum or penalty adjudged is more than £3, or in which the penalty adjudged is imprisonment for more than one calendar month, any person thinking himself aggrieved may appeal to the next

* See note on 17 & 18 Vict. c. 38. s. 8., *post*, p. 160.

general or quarter sessions for the county wherein the cause of complaint arose, provided that such person at the time of the order or conviction, or within 48 hours thereafter, enter into a recognizance, with two sufficient sureties conditioned personally to appear at the said sessions to try such appeal, and to abide the further judgment of the sessions, and to pay such costs as shall be awarded; and it shall be lawful for the Magistrate to bind over the witnesses who have been examined in sufficient recognizances, to attend and be examined at the hearing of such appeal, every such witness on producing a certificate of being so bound, under the hand of the Magistrate, to be allowed compensation for his time, trouble, and expenses in attending the appeal, which is to be paid, in the first instance, by treasurer of county, as in cases of misdemeanor under the provisions of 7 Geo. 4. c. 64.* and in case appeal dismissed, the reasonable expenses of such witnesses attending as aforesaid, to be ascertained by the court, to be repaid to treasurer by appellant.]

As to stating a case for Superior Court, see 20 & 21 Vict. c. 43., post, p. 406.

51. [No distress by virtue of the warrant of Magistrate to be deemed unlawful for defect or want of form in any proceeding relating thereto; no party to be deemed a trespasser from the beginning for irregularity afterwards committed; persons aggrieved may recover satisfaction for special damage by action.]

Distress not
unlawful for
want of form,
&c.

52. [Plaintiff not to recover after tender of amends, and where no tender made, money may be paid into court.]

See also 10 Geo. 4. c. 44. s. 41., ante, p. 40., and 15 & 16 Vict. c. 76. (Common Law Procedure) s. 70.

53. [No action, &c. to be brought for anything done or omitted to be done in pursuance of this act, or in the execution of the powers or authorities under this act, unless 20 days notice in writing be given, nor unless brought within three calendar months, or in case there be a continuation of damage then within three calendar months next after the doing or committing such damage has ceased, or unless brought in the county of Middlesex; if plaintiff become nonsuited, or suffer discontinuance after defendant has appeared, or if verdict pass against plaintiff, or if upon demurrer or otherwise judgment be given against

Limitation of
actions, &c.

* See the provision referred to (s. 23.), *post*, p. 339.

plaintiff, defendant to have costs as between attorney and client.]

See 10 Geo. 4. c. 44. s. 41., ante, p. 39, and 5 & 6 Vict. c. 97. ss. 2. 4., post, p. 413.

54. [Repeal of 3 & 4 Will. 4. c. 19. and 7 Will. 4. & 1 Vict. c. 37.]

55. [This act and 10 Geo. 4. c. 44. and 2 & 3 Vict. c. 47. to be construed together as one act.]

Saving as to
customs, ex-
cise, stamps,
taxes, and post
office acts.

56. [In proceedings under customs, excise, stamps, taxes, or post office acts, nothing herein to prevent penalties awarded by any of the said Magistrates from being recovered and adjudged to be paid as if this act had not been passed, or to give any appeal where such appeal is not given by the act or acts specially relating thereto.]

SCHEDULES to which the foregoing act refers.

SCHEDULE (A.) [s. 43.]

Table of Fees.			s.	d.
For every summons	-	-	2	0
For every warrant (except warrants of distress)	-	-	2	0
For backing a warrant	-	-	1	0
For every recognizance to appear before a magis- trate or to take trial	-	-	2	6
For every recognizance to keep the peace or to be of good behaviour	-	-	2	0
For every supersedeas	-	-	3	0
For every warrant of distress	-	-	3	0
For every declaration, except those relating to lost duplicates of articles under 20s., and except those made for the use of public offices or departments or for charitable purposes	-	-	1	0

[SCHEDULE (B.) [s. 48.] contains forms of information and conviction.]

POLICE COURTS, METROPOLIS, AND METROPOLITAN POLICE
FORCE (AMENDMENT OF ACTS).

3 & 4 VICT. c. 84.

2 & 3 Vict.
c. 47.

s. 75.

s. 76.

Whereas by 2 & 3 Vict. c. 47. it is among other things enacted, that in the construction of that act the word "Magistrate" shall be taken to include every justice of the peace acting in and for any part of the Metropolitan Police District for which no police court shall be established, and that if any offence against that act shall have been committed or the offender apprehended in any

part of the Metropolitan Police District for which no police court shall be established as aforesaid, the matter of such complaint may be also heard and determined by any two or more justices acting in and for the county in which the offence was committed or the offender apprehended; and it is expedient that the meaning of these enactments be more clearly expressed, and that further provision be made for defining the divisions for which police courts are established within the Metropolitan Police District.

1. [So much of the said act as is recited repealed.]

Repeal of
2 & 3 Vict. c. 47.
ss. 75, 76. in part.

2. [Queen in council may constitute police court divisions, and define and alter their extent and number; and assign a division to each of the police courts already established, and establish a police court for each of the other divisions: Nothing in this act to restrain the police Magistrates from acting in all places within the limits of their commissions as if this act had not been made; not to be more than 27 Magistrates.]

Power to con-
stitute and alter
police court
divisions.

Limiting num-
ber of Magis-
trates.

See 2 & 3 Vict. c. 71. s. 2., ante, p. 42.

3. [So much of 2 & 3 Vict. c. 71. as requires the daily attendance of one of the said Magistrates to apply only to the police courts established in Bow Street, and in the parishes of Saint Margaret Westminster, Saint James Westminster, Saint Marylebone, Saint Andrew Holborn, Saint Leonard Shoreditch, Saint Mary Whitechapel, and Saint John of Wapping, in the county of Middlesex, and Saint Saviour in the county of Surrey, and to continue to apply to the said courts, wheresoever they may from time to time be holden or removed to within the Metropolitan Police District.]

So much of
2 & 3 Vict. c. 71.
as requires the
daily attend-
ance of a police
Magistrate to
apply only
to courts
already esta-
blished.

See 2 & 3 Vict. c. 71. s. 12. ante, p. 43.

4. [Queen in council may fix days and times at which Magistrates shall attend regularly at police courts hereafter established.]

Attendance at
other courts.

5. [Orders in council to be published in the Gazette.]

6. Any two justices having jurisdiction within the Metropolitan Police District shall have, while sitting together publicly in the court or room used for holding special or petty sessions of the peace in any part of the said district within the limits of their commission, except in the divisions to be assigned to the police courts already established, and any two justices for the city of London and the liberties thereof, having jurisdiction within the city of

Any two jus-
tices may act
with the autho-
rity of a police
Magistrate.

Proviso.

London and the liberties thereof, shall within the said city of London and the liberties thereof have all the powers, privileges, and duties which any one Magistrate of the said police courts has while sitting in one of the said courts by 2 & 3 Vict. cc. 47. and 71. or either of them: * Provided always, that whenever a new police court shall have been established within the Metropolitan Police District, and a division assigned to such court as aforesaid, such justices shall not act in that division, in the execution of the two said acts or either of them, elsewhere than at such court; and that at every police court at which the regular attendance of a police Magistrate shall have been ordered by Her Majesty as herein-before provided the police Magistrate while present in such court shall act as the sole Magistrate thereof.

See also s. 15, post.

Form of recognizance, information, and conviction in certain cases.

8. Every recognizance taken at any station house of the Metropolitan Police Force situated in a division in which a police Magistrate is not in daily attendance shall be conditioned for the appearance of the person thereby bound before the Magistrate or justices acting in the division at his or their next sitting, and every such recognizance shall be returned to the Magistrate or justices present at the time and place where the party is bound to appear; and when the information is laid or the conviction had before two justices, the forms given in the schedule annexed to this act may be used instead of the forms of information and conviction provided by the last-recited act.

See 2 & 3 Vict. c. 47. s. 72., ante, p. 36, and c. 71. s. 48., ante, p. 56.

Extension of power to enlarge prisoners on recognizance.

9. Whenever any person is charged before any police Magistrate or before any two justices, at any police court within the Metropolitan Police District, with any felony or misdemeanor for which he is liable to be committed to take his trial at the assizes to be holden for Essex, Hertford, Kent, or Surrey, it shall be lawful for such police Magistrate or for such justices, if he or they think fit, to suffer such person to go at large upon a recognizance conditioned for surrendering himself to take his trial at such assizes, in like manner as such recognizance may be taken for his surrender to take his trial at the Central Criminal Court, in cases where he is liable to be committed for trial at the Central Criminal Court; and every such recognizance shall

* This section does not enable two justices to exercise the power given to a police magistrate by s. 13. *Edwards v. Hodges*, 15 Common Bench Rep. 477.

be within all the provisions of 2 & 3 Vict. c. 71. relating to recognizances for surrendering to be tried at the Central Criminal Court.

See 2 & 3 Vict. c. 71. s. 36., ante, p. 51.

10. All proceedings within the Metropolitan Police District relating to the serving of notices, and the procuring and making out of the returns of the persons liable to serve in the militia, and the preparing and making out of the lists of the persons liable to be balloted for the militia, and all other things, by 42 Geo. 3. c. 90. or by any other act relating to the militia directed to be done by the high and other constables for the time being, shall be done within the said district by the constables of the Metropolitan Police Force, or by such of them as shall be from time to time specially appointed for that purpose by the Commissioners of Police.

Militia balloting lists to be made out by police constables.

See 17 & 18 Vict. c. 105. s. 39., post, p. 397.

11. Any person who shall obtain any sum of money or other reward from any person within the Metropolitan Police District by threatening directly or indirectly to lodge any information or make any complaint before any Magistrate, justice or justices, for any misdemeanor, or as an inducement for forbearing to lay such information or make such complaint, shall, on conviction of the offence before one of the police Magistrates, or two justices, either by his own confession or by the oath of any credible witness, be liable to a penalty not more than £10.

Penalty for obtaining money by threatening information.

See also 2 & 3 Vict. c. 71. s. 33. ante, p. 49.

12. [Appeal to the police Magistrates from proceedings at the leet concerning weights and measures.]

13. None of the police Magistrates within the Metropolitan Police District shall be required to go upon any deserted lands, tenements, or hereditaments, for the purpose of viewing the same or affixing any notices thereon, or of putting the landlord or landlords, lessor or lessors, into the possession thereof, under the provisions of 11 Geo. 2. c. 19. "for the more effectual securing the payment of rents, and preventing frauds by tenants," or of 57 Geo. 3. c. 52. for altering the last-recited act; but in every case within the Metropolitan Police District, in which by the said acts or either of them two justices are authorized to put the landlord or lessor into the possession of such deserted premises, it shall be lawful for one of the police Magistrates, upon the request of the lessor or landlord, or his or her bailiff or receiver, made in open court, and upon

Giving possession of deserted premises.

proof given to the satisfaction of such Magistrate of the arrear of rent and desertion of the premises by the tenant as aforesaid, to issue his warrant, directed to one of the constables of the Metropolitan Police Force, requiring him to go upon and view the premises, and to affix thereon the like notices as under the said acts or either of them are required to be affixed by two justices; and upon the return of the warrant, and upon proof being given to the satisfaction of the Magistrate before whom the warrant shall be returned that it has been duly executed, and that neither the tenant nor any person on his or her behalf has appeared and paid the rent in arrear, and that there is not sufficient distress upon the premises, it shall be lawful for such Magistrate to issue his warrant to a constable of the Metropolitan Police Force, requiring him to put the landlord or lessor into the possession of the premises; and every constable to whom any such warrant is directed shall duly execute and return the same, subject to the provisions contained in 2 & 3 Vict. c. 47., as to the execution of warrants directed to constables of the Metropolitan Police Force; and upon the execution of such second warrant the lease of the premises to such tenant, as to any demise therein contained only, shall thenceforth be void.

See 11 Geo. 2. c. 19. s. 16., post, p. 216, and 57 Geo. 3. c. 52., post, p. 217.

See note on s. 6., ante.

London justices to have same powers as Metropolitan justices.

15. [Any two justices for the city of London and the liberties thereof, to have within the said city and liberties all powers, privileges, and duties which two justices having jurisdiction within the Metropolitan Police District have within that district by this act.]

See also s. 6., ante.

SCHEDULE. [s. 8.]

[Forms of information and conviction.]

POLICE COURTS, METROPOLIS.

21 & 22 VICT. c. 73.

2 & 3 Vict. c. 71. s. 18. amended.

6. So much of s. 18. of 2 & 3 Vict. c. 71. as makes void (except in the cases therein excepted) "every summons or warrant issued by any justice of the peace of the counties of Middlesex, Surrey, Kent, Essex, or Hertfordshire" respectively, requiring any person residing within the Metropolitan Police District to appear at any place without the said district to answer any information or

" complaint touching any matter arising within the said " district," shall not apply to any such summons or warrant in respect of any matter arising within any part of the said district not assigned to any of the police courts of the metropolis.

7. In every case in which any person is brought before any police Magistrate, or any two magistrates acting within the Metropolitan Police District for any place within which no police court is established, for any offence under 2 & 3 Vict. c. 71. s. 24. such police Magistrate or such magistrates acting in and for such place, may hear and determine the matter, and in case of conviction may commit the offender to be imprisoned in any gaol or house of correction in and for the county, liberty, or place in which such offence was committed though not within the Metropolitan Police District, and with or without hard labour for not exceeding two calendar months, and in their discretion without the infliction of any fine in default of payment of which such imprisonment might be adjudged.

Magistrates acting in places within Metropolitan Police District for which no police court is established may commit to county gaol, &c. under 2 & 3 Vict. c. 71. s. 24.

13. [Any stipendiary Magistrate may appoint a deputy, with approval of Secretary of State.]

Deputy to Magistrate.

14. [Power to appoint any country stipendiary Magistrate to be a Magistrate of the metropolitan police courts.]

EMPLOYMENT OF METROPOLITAN POLICE FORCE IN H.M.'S YARDS AND MILITARY STATIONS.

23 & 24 VICT. c. 135.

1. It shall be lawful for the Commissioner of Police of the Metropolis from time to time to employ and authorize to act in Her Majesty's yards, and in the principal stations of the War Department, and within the limits herein-after mentioned, such number of the constables belonging to the Metropolitan Police Force as one of Her Majesty's Principal Secretaries of State shall direct, and such Commissioner, subject to the approbation of such Secretary of State, may replace such constables by as many additional constables as shall be from time to time required, and may frame such special orders and regulations for and in relation to the constables to be employed under this act, and either in addition to or in substitution for any of the orders and regulations for the time being applicable to the Police Force within the Metropolitan Police District, as he shall from time to time deem

Such number of constables of the Metropolitan Police as the Secretary of State may direct may be employed in Her Majesty's yards, &c.

expedient for preventing neglect or abuse and securing the efficiency of the constables so employed.

Commissioner of Metropolitan Police may swear constables to act within Her Majesty's yards, &c., and within 15 miles thereof.

2. It shall be lawful for the Commissioner of Police of the Metropolis to administer to any constable belonging to the Metropolitan Police Force who may be appointed or employed as aforesaid an oath to execute the office of constable within all or any of Her Majesty's yards, or of the principal stations of the War Department, in any part of England and Wales, and within 15 miles of such yards or stations; and every constable so sworn shall have the powers and privileges and be liable to the duties and responsibilities of constable within the yards, stations, and limits for which he is so sworn, as well on seas as in harbours and havens, and on rivers and other waters as on land, and shall act within such yards, stations, and limits as fully as in any part of the Metropolitan Police District:

Provided always, that the powers and privileges of the constables of the Metropolitan Police, when without the yards, naval and marine hospitals and infirmaries, and marine barracks or stations, and not on board or in any ship, vessel, or boat belonging to Her Majesty or in Her Majesty's service, shall only be used in respect of the property of the Crown, or of persons subject to naval or marine or military discipline.

Assistant Commissioners to act as herein stated.

3. The Assistant Commissioners, and each or either of them, shall act in execution of this act in like manner as in execution of the acts relating to the Police of the Metropolis.

Expenses.

4. [Charges incurred for constables under this act to be defrayed out of monies provided by Parliament.]

Disqualification of Commissioner, &c.

5. [Neither the Commissioner of Police, nor any Assistant Commissioner, nor any person belonging to the Metropolitan Police Force, to vote or interfere in parliamentary elections for any county, &c. in any part of which he is authorized to act by this act under a penalty of £100.]

Interpretation.

6. The word "yards," where mentioned in this act, shall mean Her Majesty's dockyards, Her Majesty's victualling yards, and Her Majesty's steam factory yards; and the word "stations" shall mean only the principal stations of Her Majesty's War Department and the central arsenal when the same shall be hereafter created.

24 & 25 VICT. c. 51.

[Recites the passing of 23 & 24 Vict. c. 135.] And whereas some of the officers and men who formerly acted as the police in Her Majesty's yards were permitted to join the Metropolitan Police Force, and it is necessary to make provision for pensions for such officers and men who would or might have been entitled to pensions had they continued to act as police in Her Majesty's yards without being appointed constables in the Metropolitan Police Force; and it is also expedient to give further protection to the Metropolitan Police Force employed in Her Majesty's yards and military stations when in the execution of their duty.

1. There shall be paid to the Receiver of the Metropolitan Police District or other proper officer, out of such monies as may at any time or from time to time be provided by Parliament for the purpose, such sum and sums of money as shall be sufficient to pay to such officers and men who formerly acted as the police in Her Majesty's yards, and who joined the Metropolitan Police Force, such amount of pensions as the said officers and men would or might have become entitled to had they continued to act as police in Her Majesty's yards without being appointed constables in the Metropolitan Police Force.

Provision for
pensions.

2. The officers and men who formerly acted as the police in Her Majesty's yards, and who joined the Metropolitan Police Force as aforesaid, are hereby exempted from the yearly rate of deduction from their pay which by the 22d sect. of 2 & 3 Vict. c. 47. is authorized to be deducted from the pay of every constable belonging to the Metropolitan Police Force.

Exemption
from deduction
from pay
authorized by
sect. 22 of
2 & 3 Vict.
c. 47.

3. If any person shall assault or resist any constable belonging to the Metropolitan Police Force acting in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being summarily convicted thereof before any two justices, shall for every such offence forfeit and pay such sum, not exceeding £5, as the said justices shall think meet, or, in the discretion of the justices before whom he is convicted, may be imprisoned for any term not exceeding one calendar month;

Penalty for
assaulting, &c.
police when in
execution of
their duty.

and the said justices are hereby authorized to issue warrants of distress to levy any such sum or sums by distress and sale of the offender's goods;

Application
of penalties.

and every such sum which shall be so paid or levied shall be applied as the Lord High Admiral or the commissioners for executing the office of Lord High Admiral, or the principal Secretary of State for the War Department, shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

*See 2 & 3 Vict. c. 47. s. 18., ante, p. 14, and note thereon.
See also 2 & 3 Vict. c. 71. s. 14., ante p. 43.*

HACKNEY CARRIAGES, WAGGONS, CARTS, &c. METROPOLIS.

1 & 2 WILL. 4. c. 22.

1. [Repeal of various acts and parts of acts.]
2. [Determination of existing hackney carriage licences.]
3. [Grant of new hackney carriage duties.]

*These duties are repealed and new duties granted by
16 & 17 Vict. c. 127. ss. 1, 2., post, p. 120.*

Definition of
a hackney
carriage.

4. Every carriage with two or more wheels used for the purpose of standing or plying for hire in any public street or road at any place within five miles from the general post office, whatever be the form or construction of such carriage, or the number of persons which the same is calculated to convey, or the number of horses by which the same is drawn, shall be deemed a hackney carriage within the meaning of this act; and in all proceedings at law or otherwise, and upon all occasions whatsoever, it shall be sufficient to describe any such carriage as aforesaid by the term "hackney carriage," without otherwise describing the same: Provided always, that nothing in this act shall extend to any stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed by the commissioners of stamps, and having thereon the proper numbered plates required to be placed on such stage coaches.

See 3 & 4 Will. 4. c. 48. s. 7., post, p. 94; 6 & 7 Vict. c. 86. s. 2. post, p. 99, and 16 & 17 Vict. c. 127. s. 17., post, p. 121.

Exemption
from duties
on horses let
for hire.

5. [Horses used in drawing hackney carriages where used to go no greater distance than 10 miles from the general post office, not to be subject to the duties imposed by 4 Geo. 4. c. 62. on horses let for hire.]

See 16 & 17 Vict. c. 88. s. 5., post, p. 119.

Hackney car-
riages not to be
kept without

6. It shall not be lawful for any person to keep, use, employ, or let to hire any hackney carriage, within five

miles from the general post office, unless such person have a licence [from the commissioners of stamps,] nor unless there be fixed on such hackney carriage, in manner herein-after mentioned, the numbered plate herein-after directed to be delivered with every such licence.

licences, or
without plates.

See 16 & 17 Vict. c. 127. s. 17., post, p. 121.

7. Any two of the commissioners of stamps, or any person duly authorized by the said commissioners, shall grant licences under their or his hands or hand, upon the terms and conditions and in the manner herein-after mentioned, to keep, use, employ, and let to hire any hackney carriage within five miles from the general post office; and the said commissioners or the person so authorized shall, at the time of granting every such licence, and at all other times when necessary, deliver to the persons applying for such licences a numbered plate, to be fixed upon every such hackney carriage in manner herein-after mentioned, upon which plate there shall be painted a number corresponding with the number inserted in such licence, together with such device as the said commissioners think fit to cause to be painted on every such plate; and such plate shall be known and distinguished by the name of the stamp office plate: Provided always, that it shall be lawful for the said commissioners, if they think proper, to refuse to grant any such licence to any person whose former licence has been revoked by the said commissioners under any of the powers in this act, or to any person who is in arrear for any duties granted by this act; and provided also, that no such licence shall be granted to any person under the age of 21 years, nor to any person who has been at any time convicted of felony, or of knowingly receiving stolen property.

Licences to be
granted by the
commissioners
of stamps or
their officers.

See 16 & 17 Vict. c. 33. s. 1., post, p. 112, and c. 127. ss. 12. 17., post, pp. 120, 121.

11. [Requisition for licence to be signed by the proprietor or one of the proprietors, and to contain the name and address of the applicant and of every proprietor or part proprietor; penalty for not making a true statement, £10.]

Requisition for
licence.

12. There shall be specified in every such licence the true Christian name and surname and place of abode of the person and of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned either solely or in partnership with any other person in the keeping.

What shall be
specified in the
licences.

Application
of penalties.

and every such sum which shall be so paid or levied shall be applied as the Lord High Admiral or the commissioners for executing the office of Lord High Admiral, or the principal Secretary of State for the War Department, shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

See 2 & 3 Vict. c. 47. s. 18., ante, p. 14, and note thereon. See also 2 & 3 Vict. c. 71. s. 14., ante p. 43.

HACKNEY CARRIAGES, WAGGONS, CARTS, &c. METROPOLIS.

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a hackney
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See 3 & 4 Will. 4. c. 48. s. 7., post, p. 94; 6 & 7 Vict. c. 86. s. 2. post, p. 99, and 16 & 17 Vict. c. 127. s. 17., post, p. 121.

Exemption
from duties
on horses let
for hire.

5. [Horses used in drawing hackney carriages where used to go no greater distance than 10 miles from the general post office, not to be subject to the duties imposed by 4 Geo. 4. c. 62. on horses let for hire.]

See 16 & 17 Vict. c. 88. s. 5., post, p. 119.

Hackney car-
riages not to be
kept without

6. It shall not be lawful for any person to keep, use, employ, or let to hire any hackney carriage, within five

miles from the general post office, unless such person have a licence [from the commissioners of stamps,] nor unless there be fixed on such hackney carriage, in manner herein-after mentioned, the numbered plate herein-after directed to be delivered with every such licence.

See 16 & 17 Vict. c. 127. s. 17., post, p. 121.

7. Any two of the commissioners of stamps, or any person duly authorized by the said commissioners, shall grant licences under their or his hands or hand, upon the terms and conditions and in the manner herein-after mentioned, to keep, use, employ, and let to hire any hackney carriage within five miles from the general post office; and the said commissioners or the person so authorized shall, at the time of granting every such licence, and at all other times when necessary, deliver to the persons applying for such licences a numbered plate, to be fixed upon every such hackney carriage in manner herein-after mentioned, upon which plate there shall be painted a number corresponding with the number inserted in such licence, together with such device as the said commissioners think fit to cause to be painted on every such plate; and such plate shall be known and distinguished by the name of the stamp office plate: Provided always, that it shall be lawful for the said commissioners, if they think proper, to refuse to grant any such licence to any person whose former licence has been revoked by the said commissioners under any of the powers in this act, or to any person who is in arrear for any duties granted by this act; and provided also, that no such licence shall be granted to any person under the age of 21 years, nor to any person who has been at any time convicted of felony, or of knowingly receiving stolen property.

Licences to be granted by the commissioners of stamps or their officers.

See 16 & 17 Vict. c. 33. s. 1., post, p. 112, and c. 127. ss. 12. 17., post, pp. 120, 121.

11. [Requisition for licence to be signed by the proprietor or one of the proprietors, and to contain the name and address of the applicant and of every proprietor or part proprietor; penalty for not making a true statement, £10.]

Requisition for licence.

12. There shall be specified in every such licence the true Christian name and surname and place of abode of the person and of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned either solely or in partnership with any other person in the keeping.

What shall be specified in the licences.

using, employing, or letting to hire of such hackney carriage, the number painted or marked on the plates to be fixed on such hackney carriage, together with such clauses and conditions for more effectually securing the payment of the weekly duty by this act made payable in respect of every such licence as the commissioners of stamps in their discretion think fit; and every such licence shall bear date on the day on which it is granted.

Change of
abode of
licensed pro-
prietor.

13. [Notice to be given to the stamp office by proprietor of hackney carriage of any change of abode within seven days thereafter, and endorsement of particulars of such change to be made at stamp office on the licence; penalty for default of notice or production of licence, 40s.]

Registry at
Guildhall.

14. [Names, &c. of proprietors of hackney carriages to be registered at the guildhall in London.]

Virtually repealed by 6 & 7 Vict. c. 86. s. 15., post, p. 102.

Payment of
duties.

15. [Weekly duties in what manner to be paid. In default of payment licence may be revoked, and the numbered plate called in.]

See 16 & 17 Vict. c. 127. s. 12., post, p. 120.

Discontinu-
ance of licence.

16. [How persons to whom licences granted may discontinue them.]

Delivery up of
plate.

17. [Plate to be delivered up on the discontinuance or revocation of licence; defaulter to forfeit £10, and continue liable to duty.]

See 6 & 7 Vict. c. 86. s. 26., post, p. 104., and 16 & 17 Vict. c. 127. s. 10., post, p. 120.

Carriages,
horses, harness,
&c. liable to
duties and
penalties.

18. [All carriages, horses, and harness, and other articles and things, kept, used, or employed for the purpose of being let for hire by any person to whom any such licence as aforesaid is granted under this act, shall be liable to all the duties which become due and payable from such person in respect of any such licence, and all penalties incurred by such person under this act, and the costs and expenses of all proceedings had or taken for the recovery of any such duties and penalties respectively, and may be seized to satisfy such duties, penalties, costs, and expenses, in or into whose custody or possession soever such carriages, &c. may be or come, and by or under what right or title soever. If any person in or into whose custody or possession any such carriages, &c. shall be or come, by or under any means or title whatsoever, convert same to his own use, or sell or dispose thereof for any other person, after notice from stamp office or any officer of stamps, that such carriages, &c. are liable

to any duties, &c. aforesaid, such person so converting, &c. such carriages, &c. to be accountable to the value of such carriages, &c., for the duties, &c. to which such carriages, &c. are liable, which may be recovered under this act as a debt due to His Majesty accordingly.]

19. If any person to whom any such licence as aforesaid is granted make default in payment of the said weekly duty due or payable in respect of such licence, at the time and in the manner by this act appointed for payment thereof, it shall be lawful for any two of the commissioners of stamps to grant a warrant to any constable or police officer, or to any officer of stamp duties, directing him to distrain every such person so making default as aforesaid, by his goods and chattels, and also to seize and take the carriages, horses, harness, and other articles and things by this act made subject and liable to such duty, for the amount of the duty so due or payable as aforesaid, and of all the costs, charges, and expenses incident or relating to the taking and keeping of such distress; and it shall be lawful for such constable or for any such officer as aforesaid to make such distress and seizure accordingly; and the distress so taken to detain and keep for the space of five days, at the costs and charges of the person distrained; and if the amount of such duty, and of all the costs, charges, and expenses aforesaid be not paid within such space of five days, then such constable or other officer shall cause the goods and chattels, carriages, horses, harness, and other things so seized or taken, to be sold in the manner directed by this act, and shall render the overplus, if any, of the money arising by the sale thereof, after deducting and retaining the amount of such duty, and all the costs, charges, and expenses aforesaid, as well as the charges and expenses of the sale, to the person so distrained, or to the owner of the carriages, horses, harness, or other things so seized and taken as aforesaid; and for the purpose of taking such distress it shall be lawful for such constable or police officer, or for such officer of stamp duties in the presence of any constable or police officer, where any refusal or resistance is made, to break open, in the daytime, any house or place where any such carriages, horses, harness, or other articles or things, or any goods or chattels, to be seized or taken under such warrant as aforesaid, shall be.

Duties recoverable by distress.

20. Upon every hackney carriage used for the purpose of standing or plying for hire, or let for hire, within five miles from the general post office, the stamp office plate shall be

Numbered plates to be placed upon hackney carriages.

fixed in a conspicuous place on the outside of the back of such hackney carriage; and there shall also be fixed upon every such hackney carriage, in the manner herein-after directed, three other numbered plates, of the description herein-after mentioned, to be provided for this purpose by the proprietor of such hackney carriage; that is to say, a plate having thereon the number of the stamp office plate placed upon such hackney carriage, denoted by projecting figures of one inch and a half at least in length, and of a proportionate breadth, and without any other figure or any letter or other device thereon, shall be fixed in a conspicuous place on the inside of the back of such hackney carriage; and two other plates, upon which there shall be painted, in letters and figures of black upon a white ground, the christian name and surname of the proprietor or of one of the proprietors of such hackney carriage, and the number of the said stamp office plate, shall respectively be fixed in some conspicuous place on each side of such hackney carriage; and if it happen that the commissioners of stamps or their authorized officer shall be dissatisfied with the position of any plate fixed or placed upon any such hackney carriage, and shall direct such plate to be placed upon some other conspicuous part of any such hackney carriage, such plate shall be placed and fixed accordingly upon any part of such hackney carriage in compliance with such direction; and every such plate shall be placed and fixed upon every such hackney carriage in such manner that the number thereon shall be at all times plainly and distinctly visible and legible; and if any proprietor or driver of any hackney carriage permit or suffer any such plate, or the number on any such plate, placed or fixed upon such hackney carriage, to be in any manner or by any means concealed from public view, or to be inverted, or if such proprietor or driver, or any waterman or assistant to the drivers of hackney carriages, molest or oppose or by any means endeavour to prevent any person in or from inspecting any such plate fixed or placed upon any such hackney carriage, or in or from taking or noting the number thereof, or if any such proprietor, driver, or waterman or assistant by word of mouth give or declare to any person a wrong number as or for the number of such plate or of such hackney carriage, such proprietor, driver, or waterman or assistant shall forfeit £5.

Penalty for
concealing
plates, or pre-
venting persons
inspecting and
taking the
number thereof.

See 16 & 17 Vict. c. 33. s. 5., post, p. 113, and c. 127. ss. 17, 18., post, p. 121.

This enactment of 1 & 2 Will. 4. seems virtually repealed as to watermen by 16 & 17 Vict. c. 33. ss. 12, 13., post, pp. 115, 116.

21. [Commissioners may recall plates for the purpose of changing them. Where a plate has been wilfully obliterated, or rendered illegible otherwise than by regular wear, a new licence to be taken out.]

Change of plates; wilful obliteration.

22. If any person keep, use, employ, or let to hire any hackney carriage at any place within five miles from the general post office, without having a licence in force so to do, or without having the proper numbered plates properly placed and fixed upon such hackney carriage in the manner required by this act; or if any person to whom any licence has been granted under this act to keep, use, employ, or let to hire a hackney carriage do not, within one week after notice given to him, in the manner directed by this act, that the stamp office plate to which such licence relates hath been recalled, deliver up the plate mentioned in such notice, according to the terms thereof, and produce the licence relating to such plate, and apply for a new plate, and fix such new plate upon his hackney carriage in the manner directed by this act, every such person so offending in any of the several cases aforesaid shall forfeit £10.

Penalty for using, &c. a hackney carriage without licence, or without plates, or for not delivering up recalled plates, £10.

See 6 & 7 Vict. c. 86. s. 26., post, p. 104, and 16 & 17 Vict. c. 127. ss. 10. 17, 18., post, pp. 120, 121.

23. If any carriage be used for the purpose of standing or plying for hire as a hackney carriage in any public street or road at any place within five miles from the general post office, such carriage not having the proper stamp office plate fixed thereon as required by this act, the driver of such carriage, or the person plying for hire therewith, or having the care thereof, not being the owner or proprietor thereof, shall forfeit £5, and if he be the owner or proprietor, £10; and it shall be lawful for any constable or police officer, or for any officer of stamp duties, without any warrant for that purpose, to apprehend such driver or other person and convey him before any justice, to be dealt with as herein-after mentioned; and it shall also be lawful for such constable or police officer, or officer of stamp duties, to drive or take the carriage not having such plate, with the horse or horses harnessed thereto or drawing the same, or to cause the same to be driven or taken, to some public green yard, or some livery stables or other place of safety, and there to lodge the same for safe custody until the determination of such justice be known; and the justice before whom such driver or other person is brought shall hear and determine such offence; and in case the person convicted be the owner or proprietor of such carriage or of the said horse or horses,

Penalty on the driver of a carriage plying for hire without plates, £5.

If the owner, £10.

* Sic.

and if the penalty with the costs and expenses, and the expenses of taking such carriage and horses to and keeping the same at such green yard, stables, or other place, be not fully paid or discharged within five days after conviction, such carriage and horses, with the harness used therewith, shall be sold by the* order under the hand of such justice, and the surplus, if any, of the produce of such sale, after deducting the penalty, costs, and expenses, and the expenses of sale, shall be rendered to such owner or proprietor; but in case the person convicted be not the owner or proprietor of such carriage or horses, then in default of payment of the penalty, with the costs and expenses aforesaid, such justice shall commit the offender to the common gaol or house of correction for three calendar months, and give an order for the delivering up of the carriage, horses, and harness to the owner on his paying the expenses of taking and keeping the same; and in case of his refusal to pay such expenses, then such carriage, horses, and harness, or a sufficient part thereof to defray such expenses, shall be sold by order under the hand of such justice; and after payment of all such expenses with the expenses of sale, the surplus, with such part of the carriage, horses, and harness as remains unsold, shall be rendered to the owner.

See 16 & 17 Vict c. 127. ss. 17, 18., post, p. 121.

Carriages
having thereon
plates provided
under this act
to be deemed
hackney car-
riages.

24. In any proceeding for the recovery of any penalty incurred under this act with relation to any hackney carriage, if evidence be given that the carriage relating to which any such proceeding is commenced or prosecuted was seen in or upon any public street or road having thereon any numbered plate by this act directed to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble such plate as aforesaid, such carriage shall be deemed a hackney carriage, and such evidence shall be received as sufficient proof that such carriage was kept, used, and employed, and let to hire as a hackney carriage within the meaning of this act; and in all such proceedings the person named in the licence granted with or relating to the number of the stamp office plate, if any, placed upon any such carriage, whether such licence be in force or not, shall for the purposes of this act be deemed to be the proprietor of such carriage, unless the contrary be proved.

Forgery, &c. of
the stamp
office plate a
misdemeanor.

25. [If any person forge, &c. the stamp office plate by this act directed to be provided for the purpose of being fixed upon every hackney carriage, or wilfully place, &c. upon any hackney carriage or other carriage, any such

forged plate, or sell or expose to sale or utter any such forged plate, or knowingly and without lawful excuse (the proof whereof shall lie on the person accused) be possessed of any such forged plate, knowing such plate to be forged, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence as aforesaid, shall be adjudged guilty of a misdemeanor,.....] and it shall be lawful for any officer of stamp duties, or for any constable or police officer, to seize and take away any such plate, in order that the same may be produced in evidence against such offender, or be disposed of as the commissioners of stamps think proper.

26. When any information or complaint is made before any justice against the driver of any hackney carriage for any offence against this act, such justice shall forthwith summon the proprietor of such hackney carriage personally to appear, and to produce the driver, to answer such information or complaint; and if such proprietor, being duly summoned, neglect or refuse personally to appear, or to produce such driver according to such summons, without a reasonable excuse to be allowed by the justice before whom he ought to appear, such proprietor shall forfeit 40s. and so from time to time as often as he is so summoned, until such driver be produced by him: Provided always, that if such proprietor neglect or refuse to appear and produce such driver on the second or any subsequent summons without a reasonable excuse to be allowed as aforesaid, it shall be lawful for such justice to proceed to hear and determine the said information or complaint in the absence of the said proprietor, and driver, or of either of them, and upon proof of such offence by the oath of one or more credible witness or witnesses to give judgment against such proprietor for the penalty incurred by such offence.

This seems virtually repealed by 6 & 7 Vict. c. 86. s. 35., post, p. 108.

27. All pecuniary penalties and costs incurred by reason of any offence committed by the driver of any hackney carriage against this act shall, unless such driver pay the same, be levied by distress and sale of the goods of the proprietor of such carriage, and for want of sufficient distress such proprietor shall be committed to the common gaol or house of correction for not exceeding two calendar months, unless such penalties and costs be sooner paid.

28. [Proprietor paying penalty or costs for any offence committed by driver to be entitled to recover

Proprietors of hackney carriages to be summoned to appear and produce the drivers.
Penalty 40s.

On neglect on second summons justices may proceed and give judgment against proprietor.

Penalties if not paid by drivers to be levied on proprietors;

who shall be entitled to recover from the drivers.

from such driver in a summary manner upon complaint before any justice, who shall cause the sum paid by the proprietor to be levied by distress and sale of the goods of the driver, and for want of sufficient distress, shall commit the driver, with or without hard labour, for not exceeding two calendar months, unless the sum be sooner paid: Provided always, that if the driver have been previously convicted of the offence for which the penalty or costs shall be so paid by the proprietor, then such proceedings shall be had against the driver upon such conviction for recovery of the penalty and costs in which he has been convicted as might have been had in case the said penalty or costs had not been paid by the proprietor, and upon recovery thereof the sum so paid by such proprietor shall be repaid to him.]

Disputes.

29. [Justices to determine disputes between proprietors and their drivers.]

See also 6 & 7 Vict. c. 86. s. 22., post, p. 104.

Sections 30 and 31, providing for the licensing of persons to act as watermen at hackney carriage stands by the commissioners of stamps, seem virtually repealed by 16 & 17 Vict. c. 33. ss. 12, 13., post, pp. 115, 116.

Entry of
licences, &c.

32. [Particulars of licences to be entered in books at the stamp office, and such entries to be evidence; books to be open to inspection gratis.]

Using fictitious
name, &c.

33. [Procuring or attempting to procure a licence in a fictitious name, &c., a misdemeanor.]

Distance
drivers are to
go.

34. [What distance drivers of hackney carriages shall be compellable to drive.]

This seems virtually repealed by 16 & 17 Vict. c. 33. s. 7., post, p. 114.

Hackney car-
riages standing
in any street to
be deemed to be
plying for hire,
and the driver
thereof refusing
to go with any
person liable to
a penalty of
40s.

35. Every hackney carriage standing in any street or place, and having thereon any of the numbered plates required by this act to be fixed on hackney carriages, shall, unless actually hired, be deemed to be plying for hire, although such hackney carriage be not on any standing or place usually appropriated for the purpose of hackney carriages standing or plying for hire; and the driver of every such hackney carriage which is not actually hired shall be compellable to go with any person desirous of hiring such hackney carriage; and upon the hearing of any complaint against the driver of any such hackney carriage

for any such refusal, such driver shall be obliged to adduce evidence of having been and of being actually hired at the time of such refusal, and in case such driver fail to produce sufficient evidence of having been and of being so hired as aforesaid, he shall forfeit 40s.

See also s. 42., post, p. 76, and 16 & 17 Vict. c. 33, s. 17. post, p. 116.

36. If the driver of any hackney carriage in civil and explicit terms declare to any person desirous to hire such hackney carriage that it is actually hired, and afterwards, notwithstanding such reply, be summoned to answer for his refusal to carry such person in his said hackney carriage, and upon the hearing of the complaint produce sufficient evidence to prove that such hackney carriage was at the time actually and bona fide hired, and it do not appear that he used uncivil language, or that he improperly conducted himself towards the party by whom he is so summoned, the justice before whom such complaint is heard shall order the person who has summoned such driver to make to him such compensation for his loss of time in attending to make his defence to such complaint as such justice shall deem reasonable, and in default of payment thereof to* commit such person to prison for any time not exceeding one calendar month, unless the same be sooner paid.

Compensation to be made to drivers improperly summoned for refusing to carry any person.

* Sic.

37. It shall be lawful for the proprietor or driver of any hackney carriage licensed under this act to stand and ply for hire with such carriage and to drive the same on the Lord's day; and such proprietor or driver standing or plying for hire as aforesaid shall be compellable to do the like work on the Lord's day as he is by this act compellable to do on any other day.

Drivers may ply and shall be compellable to drive on Sundays.

By 16 & 17 Vict. c. 127. s. 2., licences may be taken out for six days only (excluding Sunday).

Sections 38, 39, 40, relating to the fares to be taken for hackney carriages, seem virtually repealed by 16 & 17 Vict. c. 33. s. 4., post, p. 113.

41. If any person refuse or omit to pay the driver of any hackney carriage the sum justly due to him for the hire of such carriage, or deface or injure any such carriage, it shall be lawful for any justice, upon complaint made to him, to grant a summons, or if it appear to him necessary a warrant, for bringing before him or any other justice such defaulter or defender,* and, upon proof of the facts made upon oath before any such justice, to award reasonable satisfaction to the party complaining for his fare or for his damages and

Persons refusing to pay the driver his fare, or for any damage, may be committed to prison.

* Sic.

costs, and also a reasonable compensation for his loss of time in attending to make and establish such complaint; and upon the refusal of such defaulter or offender to pay or make such satisfaction it shall be lawful for such justice to commit him to prison, there to remain for any time not exceeding one calendar month, unless the amount be sooner paid; and it shall also be lawful for such justice, if he think fit, to order such defaulter or offender to be kept to hard labour during such imprisonment.

See 6 & 7 Vict. c. 86. s. 7., post, p. 100.

Penalty on
drivers refusing
to go, &c.

42. If the driver of any hackney carriage refuse to go with any person desirous of hiring his carriage for the proper and legal fare allowed by this act, or if such driver refuse to drive such hackney carriage with all reasonable and proper expedition, or if the proprietor or driver of any hackney carriage exact or demand for the hire thereof more than the proper sum limited and allowed for the same by this act, every such proprietor or driver so offending shall forfeit 40s.

This seems virtually repealed or superseded, at least in part, by 16 & 17 Vict. c. 33. s. 17., post, p. 116.

Agreement to
pay or payment
of more than
legal fare not
binding.

43. [Agreement to pay more than the legal fare not to be binding; sum paid beyond the proper fare may be recovered back before a justice, and the driver to forfeit 40s., and in default of payment may be imprisoned for not more than one month.]

Driver may be
required to
drive for a
stated sum a
distance in his
discretion.

44. It shall be lawful for any person to require the driver of any hackney carriage to drive such hackney carriage, for a stated sum of money, a distance in the discretion of such driver, and in case such driver exceed the distance to which such person was entitled to be driven for such stated sum of money, such driver shall not exact or demand more than the sum for which he was so engaged to drive, upon pain to forfeit 40s. for such offence.

Penalty for de-
manding more
than the sum
agreed for,
though less than
the legal fare,
40s.

45. If the proprietor or driver of any hackney carriage, or if any other person on his behalf and with his knowledge and consent, agree beforehand with any person hiring such hackney carriage to take for any job any sum less than the proper rate of fare allowed by this act, such proprietor or driver shall not exact or demand for his fare more than the sum agreed for, upon pain to forfeit 40s. for such offence.

Section 46, requiring the number of persons to be carried in a hackney carriage to be painted thereon, &c. is virtually repealed by 16 & 17 Vict. c. 33. ss. 9. 19., post, pp. 114, 117.

47. [Where hackney carriage is taken to any place of public resort or elsewhere, and driver is required to wait, he may demand a reasonable sum as a deposit, above the fare to which he is entitled for driving thither, to be accounted for when carriage is discharged ; penalty on the driver refusing to wait or not waiting, or refusing to account for deposit, 40s.]

Deposit to be made for carriages waiting.

48. [Proprietors to provide check strings ; drivers to hold same in their hands ; penalty on proprietor and driver for default, 20s.]

Check strings.

49. [Property left in hackney carriages to be deposited at the stamp office.]

Left property.

Virtually repealed by 16 & 17 Vict. c. 33. s. 11., post, p. 114.

50. If the proprietor or driver of any hackney carriage permit or suffer any person to ride or be carried in, upon, or about such hackney carriage, without the express consent of the person hiring the same, such proprietor or driver shall forfeit 20s.

Penalty for permitting persons to ride without consent of the hirer, 20s.

See 6 & 7 Vict. c. 86. s. 33., post, p. 108.

51. If any proprietor or driver of any hackney carriage stand or ply for hire with such carriage, or suffer the same to stand, across any street or common passage or alley, or alongside of any other hackney carriage, or two in a breadth, or within eight feet of the curbstone of the pavement in any such street or common passage or alley ; or if any such proprietor or driver, or any waterman or other person, feed the horses of or belonging to any hackney carriage in any street, road, or common passage, save only with corn out of a bag, or with hay which he shall hold or deliver with his hands ; or if the driver of any hackney carriage refuse to give way if he conveniently can to any private coach or other carriage, or obstruct or hinder the driver of any other hackney carriage in taking up or setting down any person into or from such other hackney carriage ; or if any such proprietor or driver wrongfully, in a forcible or clandestine manner, take away the fare from any other such proprietor or driver who, in the judgment of any justice before whom any complaint of such offence is heard, appears to be fairly entitled to such fare ; every such proprietor, driver, waterman, or other person so offending shall forfeit 20s.

Improperly standing with carriage, or feeding horses in the street ;

refusing to give way to private carriage or obstructing any other driver ;

or depriving him of his fare ;

Penalty 20s.

See references on next enactment, and see 6 & 7 Vict. c. 86. s. 33., post, p. 107.

52. [Carriages may stand two in breadth in Palace Yard.]
Virtually repealed, see 6 & 7 Vict. c. 86. s. 29., post, p. 106, and 13 & 14 Vict. c. 7. s. 4., post, p. 111.

53. [A clear space of 10 feet to be left after every four hackney carriages on any standing.]

See note on last preceding enactment.

Standings in
the City and
Borough.

54. [Court of Aldermen authorized to make orders for regulating hackney carriages in the city of London and in the borough of Southwark.]

Virtually repealed as to Southwark by 13 & 14 Vict. c. 7. s. 4., post, p. 111.

Penalty for
leaving car-
riages unat-
tended at places
of public
resort, 20s.

55. If the driver of any hackney carriage leave such hackney carriage unattended in any street or road, or at any place of public resort or entertainment, whether such carriage be hired or not, it shall be lawful for any officer of police, constable, or other peace officer, watchman, or patrol, to drive away such hackney carriage, and to deposit the same, with the horse or horses belonging or harnessed thereto, at some neighbouring livery stables or other place of safe custody; and such driver shall forfeit 20s. for such offence; and in default of payment of the penalty upon conviction, and of the expenses of taking and keeping the said hackney carriage and horse or horses, the same, together with the harness belonging thereto, or any of them, shall be sold by order of the justice before whom such conviction is made, and after deducting from the produce of such sale the amount of the penalty, and of all costs and expenses as well of the proceedings before such justice as of the taking, keeping, and sale of the said hackney carriage, and of the said horse or horses and harness, the surplus (if any) of the said produce shall be paid to the proprietor of such hackney carriage.

Proprietors,
drivers, or
watermen
misbehaving.

56. If the proprietor or driver of any hackney carriage, or any other person having the care thereof, by intoxication, or wanton and furious driving, or other wilful misconduct, injure or endanger any person in his life, limbs, or property, or if any such proprietor or driver, or any waterman, or assistant to the drivers of hackney carriages, make use of any abusive or insulting language, or be guilty of other rude behaviour, towards any person, or assault or obstruct any officer of stamp duties, or officer of police, constable, or other peace officer, watchman, or patrol in the execution of his duty, every such proprietor, driver, waterman, or assistant, or other person so offending in any of the several cases aforesaid, shall forfeit £5, and in default of payment

Penalty £5.

shall be committed to the common gaol or house of correction for any time not exceeding two calendar months; [Proprietors licence may be revoked by commissioners of stamps.]

And see 6 & 7 Vict. c. 86. ss. 25. 28., and references on 2d par. of s. 28., post, pp. 104, 106. This enactment of 1 & 2 Will. 4. seems virtually repealed, as to watermen, by 16 & 17 Vict. c. 33. ss. 12, 13., post, pp. 115, 116.

57. [Justices empowered to award compensation to be paid by complainants to drivers or watermen for their loss of time in attending to answer complaints not substantiated against them.]

Compensation
for unfounded
complaint.

See note on s. 56. as to watermen.

58. [Commissioners of stamps to give notice of the revocation of licences to persons named in them.]

Notice of revo-
cation.

59. The owner of every waggon, wain, cart, car, dray, or other such carriage driven or used in any public street or road within the distance of five miles from the general post office, shall, before such carriage is so driven or used, paint or cause to be painted in words at full length, and in one or more straight line or lines, upon some conspicuous place on the right or off side of such carriage, clear of the wheel or wheels thereof, or upon the right or off side shaft thereof, the true Christian name and surname and place of abode of the owner or (if there be more than one) of the principal owner of such carriage, and the letters of all such words shall be painted in legible and conspicuous characters of black upon a white ground or of white upon a black ground, and shall be at least one inch in height, and of a proper and proportionate breadth; and all such words shall be repainted or renewed in like manner from time to time as often as the same or any part thereof shall become obliterated or defaced.

Names and
places of abode
of owners of
waggons, carts,
&c. to be
painted
thereon.

Amended by 6 & 7 Vict. c. 86. s. 4., post, p. 99. See also 5 & 6 Will. 4. c. 50. s. 76., post, p. 280 (as to highways), and 4 Geo. 4. c. 95. s. 15., post, p. 290 (as to turnpike roads).

60. If any person drive or use or cause to be driven or used in or upon any public street or road within the distance of five miles from the said general post office any waggon, wain, cart, car, dray, or other such carriage upon which there is not duly painted in such legible and conspicuous characters as aforesaid and in the manner directed by this act, the true Christian name and surname and place of abode of the owner, or (if there be more than one) of the principal owner of such waggon, wain, cart, car, dray, or other such

Penalty for
default, &c.

carriage, every person so offending shall forfeit £5; and it shall be lawful for any person to take and seize such waggon, wain, cart, car, dray, or other such carriage, and any horse drawing the same, and to lodge the same for safe custody at some public green yard, or some livery stables or other place of safety, and them to detain and keep until some justice shall hear and determine such offence, and until the penalty which such offender shall be liable and adjudged to pay for such offence, together with the costs of the proceedings for the recovery thereof, and the expenses of taking and keeping such carriage, and any horse drawing the same, be paid and discharged; and if, on the conviction of any such offender, the said penalty, costs, and expenses be not forthwith paid, such carriage, and the horse, so seized and taken as aforesaid, or either of them, shall be sold, under an order for that purpose under the hand of such justice, directed to the constable or other peace officer of the parish or place where any such offence is committed; and the surplus (if any) of the money arising from such sale, after deducting thereout the amount of such penalty, costs, and expenses as aforesaid, together with the costs and expenses of such sale, shall be rendered to the owner of the carriage or horse so seized and sold as aforesaid.

See 5 & 6 Will. 4. c. 50. s. 78., post, p. 281 (as to highways), and 3 Geo. 4. c. 126. s. 132., post, p. 287 (as to turnpike roads).

Duties, &c.
how recover-
able.

61. [Duties and penalties as to licences and stamp office plate how recoverable.]

See 16 & 17 Vict. c. 127. s. 18., post, p. 121.

Jurisdiction as
to offences.

62. [Before whom offences shall be heard and determined; viz., such Metropolitan Police Magistrate as may be specially directed in this behalf by the Secretary of State or any other justice having jurisdiction where the offence is committed.]

See 6 & 7 Vict. c. 86. ss. 36, 39., post, pp. 109, 110, and 16 & 17 Vict. c. 33. s. 18., post, p. 117.

Mode of pro-
ceeding for
penalties before
justice.

63. It shall be lawful for any such justice, in all cases in which no other mode of proceeding is specially provided or directed by this act, upon information or complaint made by any person of any offence against this act within 30 days next after the commission of any such offence, to summon the party accused, and also the witnesses on either side, to appear before the said justice, or any other justice, at a time and place to be appointed for that purpose, [and on appearance of accused or in default justice to examine

into the case, and on proof by confession or by a witness or witnesses to give judgment: payment of penalty and costs to be enforced by imprisonment where specially directed, otherwise by distress and sale, and in default of distress by imprisonment.]

See 6 & 7 Vict. c. 86. ss. 38, 39., post, p. 110, and 2 & 3 Vict. c. 71. ss. 44, 45., ante, pp. 54, 55.

64. [In what manner goods distrained under this act shall be sold.] Sale of goods distrained.

See 6 & 7 Vict. c. 86. s. 40.

65. [Summonses, convictions, and warrants to be drawn up according to the forms in the schedule (D.)] Forms.

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

66. [Justices may issue either warrants or summonses against proprietors and drivers.] Warrant or Summons.

See 6 & 7 Vict. c. 86. s. 41., post, p. 110. See also 2 & 3 Vict. c. 71. ss. 19-21., ante, pp. 44, 45.

67. [Penalty on witnesses neglecting to attend or refusing to give evidence, £5.] Penalty on witnesses.

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

68. Any summons issued by any justice requiring the appearance of any defendant, witness, or other person, with reference to any information, complaint, or other proceeding pending for the recovery of any duty or penalty under this act, shall be deemed well and sufficiently served in case the summons or a copy thereof be served personally on such person, or be left at his usual or last place of abode, or (in case such person be a licensed proprietor of a hackney carriage), at the place specified in any such licence as the place of abode of such proprietor, and if the place so specified cannot be found, or if such proprietor be not known thereat, then such summons shall be deemed well and sufficiently served if the same or a copy thereof be fixed up in some conspicuous place in the said head office for stamps to be appointed for that purpose.

See 6 & 7 Vict. c. 86. s. 41., post, p. 110. See also 2 & 3 Vict. c. 71. s. 20., ante, p. 45.

69. [Penalty on constable refusing to serve a summons or execute a warrant, £5.] Penalty on constable.

See also 2 & 3 Vict. c. 47. s. 14., ante, p. 13.

70. [Justices may mitigate penalties.] Mitigation of penalties.

See 6 & 7 Vict. c. 86. s. 45., post, p. 110. See also 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

Application of penalties.

71. [All pecuniary penalties recovered before a justice under this act, except those recovered in the city of London or borough of Southwark, to be divided as follows; one moiety to His Majesty, and the other (with costs) to the informer.]

But see 2 & 3 Vict. c. 71. ss. 34. 47., ante, pp. 50, 56. See also 6 & 7 Vict. c. 86. s. 46., post, p. 111.

Informant, &c. may be a witness.

72. [Upon trial or hearing of information or complaint under this act, informant, complainant, or other person to be a competent witness, notwithstanding he may be entitled to part of pecuniary penalty, or to pecuniary compensation or reward, on conviction of offender.]

But see 6 & 7 Vict. c. 86. s. 37., post, p. 109. See also 18 & 19 Vict. c. 126. s. 22., post, p. 383.

Actions, &c.

73. [Actions, &c. for anything done under this act to be prosecuted within three calendar months; venue; one calendar month's notice in writing of action, and of the cause thereof, to be given; general issue; tender of amends or payment into court; costs.]

See 5 & 6 Vict. c. 97. post, p. 413, and 15 & 16 Vict. c. 76. (Common Law Procedure) s. 70.

Interpretation.

74. [Words importing the singular number or masculine gender to include several persons or animals, females, bodies politic or corporate, and several matters or things.]

STAGE CARRIAGES (GREAT BRITAIN).

2 & 3 WILL. 4. c. 120.

1, 2, 3. [Repeal of various acts and parts of acts.]

4. [Grant of new duties.]

Duties on stage carriage licences repealed by 2 & 3 Vict. c. 66. and 5 & 6 Vict. c. 79., and new duties granted.

Definition of a stage carriage.

5. Every carriage used or employed for the purpose of conveying passengers for hire to or from any place in Great Britain, and which when passing along any highway or other road shall travel at the rate of three miles* or more in the hour, shall, without regard to the form or construction thereof, be deemed a stage carriage within the meaning of this act; provided the passengers, or any one or more of them, thereby conveyed, be charged or pay separate and distinct fares or a separate and distinct fare, or be charged or pay at the rate of separate and distinct fares, for their respective places or seats or his place or seat therein or conveyance thereby; and in all proceedings at law or

* Altered to four miles by 6 & 7 Will. 4. c. 65. s. 7.

otherwise, and upon all occasions whatsoever, it shall be sufficient to describe any carriage used or employed as aforesaid by the term "stage carriage," without otherwise describing the same; provided always, that the said term "stage carriage" shall not be deemed to include any carriage used or employed wholly upon any railway, nor to any carriage drawn or impelled otherwise than by animal power.

6. [Stage carriages not to be used without licences, or without plates, or without having painted thereon the particulars hereby required.] Licence, &c. required.

7. In any proceeding for the recovery of any duty or penalty incurred under this act with relation to any stage carriage, if evidence be given that the carriage relating to which such proceeding is prosecuted was seen going upon any highway or other road, having placed thereon any numbered plate provided or used in pursuance of this or any former act relating to stage carriages, or having thereupon any plate resembling or intended to resemble such plate, or having painted upon such carriage any of the particulars required by this act to be painted upon stage carriages, such carriage shall be deemed a stage carriage; and such evidence shall be received as sufficient proof that such carriage was kept, used, and employed for the purpose of conveying passengers for hire as a stage carriage within the meaning of this act, unless the contrary be proved; and in all such proceedings the person named in the licence granted with or relating to the number of the plate (if any) placed upon such carriage, whether such licence be in force or not, or the person whose name (if any) is painted on such carriage, shall for the purposes of this act (unless the contrary be proved) be deemed the person to whom such carriage doth belong.

Carriages with plates or particulars painted thereon to be deemed stage carriages.

8. [By whom and where stage carriage licences shall be granted.] Grant of licences.

See 16 & 17 Vict. c. 33. s. 1., post, p. 112, and c. 127. s. 12., post, p. 120.

9. [Requisition for licence to be signed by the proprietor or one of the proprietors, and to contain the name and address of applicant and of every proprietor or part proprietor; penalty for not making a true statement £10.] Requisition for licence.

10. [Procuring or attempting to procure a licence in a fictitious name, &c. a misdemeanor.] Using false name.

84. STAGE CARRIAGES (GREAT BRITAIN). [2 & 3 W. 4. c. 120.]

- | | |
|---------------------------------|---|
| Contents of licences, &c. | 11. [Particulars to be specified in stage carriage licences. Copy of licence to be given on payment of 1s.]
<i>Amended by 5 & 6 Vict. c. 79 s. 10., post, p. 94.</i> |
| Compounding for duties. | 12. [Duties may be compounded for.]
<i>Repealed by 18 & 19 Vict. c. 78. s. 3.</i> |
| Duration of licence. | 13. [Commencement and termination of licences granted under this act; licences to be renewed yearly.]
<i>Amended by 5 & 6 Vict. c. 79. s. 8., post, p. 94.</i> |
| Discontinuance. | 14. [Mode of discontinuing stage carriage licences.] |
| | 15. [Plates to be delivered up on the expiration of licences, or in default the duty to continue payable.] |
| Supplementary licence, | 16. [Supplementary stage carriage licences may be granted in certain cases]
<i>Amended by 5 & 6 Vict. c. 79. s. 9., post, p. 94.</i> |
| its effect. | 17. [Such supplementary licence to be then the only licence in force.] |
| Payment, &c. of duty. | 18. [Duty to be payable by the person named in the licence; and to be computed according to the terms of the licence; evidence of duty being due.] |
| Allowance; account of journeys. | 19. [Commissioners may make allowance for the duties on journeys not performed by any licensed stage carriage; penalty for rendering a false account of the journeys performed by any stage carriage, £50.] |
| Time and place of payment. | 20. [When and where stage carriage duties shall be paid.]
<i>See 16 & 17 Vict. c. 127. s. 12., post, p. 120.</i> |
| Recovery of duties. | 21. [Stage carriage duties not exceeding £50 recoverable by distress.] |
| Unlicensed stage carriages. | 22. [Duties shall be paid in respect of unlicensed stage carriages, over and above the penalty.] |
| Separate licence. | 23. [A separate licence required for every pair of plates.] |
| Defaced plates. | 24. [New plates to be delivered in lieu of defaced or lost plates.] |
| Recall of plates. | 25. [Commissioners may recall and change plates.] |

26. The plates by this act required to be fixed upon every stage carriage shall be fixed, one on each side of such carriage, upon the upper fore quarter at the lower angle adjoining to the door, or if there be no upper fore quarter, then on the centre panel of each door in the side of such carriage, or if there be a door only in one side of such carriage, then one of such plates shall be fixed upon the centre panel of that door, and the other upon some conspicuous part of the opposite side of such carriage, or if there be no door in either side of such carriage then one of such plates shall be fixed upon some conspicuous part of each side of such carriage; and if it happen that the commissioners of stamps or their proper officer be dissatisfied with the position of any plate upon any such carriage, and direct such plate to be fixed upon some other conspicuous part of such carriage, such plate shall be fixed accordingly upon such carriage in compliance with such direction.

In what manner plates are to be placed upon stage carriages.

27. [If any person be concerned as proprietor or part proprietor in the using of any stage carriage, without having a licence in force so to do, or if any person, whether he have such licence or not, use any stage carriage, such carriage not having fixed thereupon in manner directed by this act the numbered plates required, or having thereupon any such plate the number or device whereon is defaced or obscured so as not to be distinctly legible, or if any person to whom any licence has been granted neglect or refuse, for one week after notice that the plates have been recalled, to deliver them up, every person so offending shall forfeit £20.]

Penalty for keeping, using, &c. any stage carriage without a licence, or without plates, or with recalled plates.

28. [Persons using stage carriages contrary to their licences, or with improper plates, to be deemed to be using them without licences.]

Using contrary to licence, &c.

29. [Representatives of persons licensed dying, or becoming bankrupt or insolvent, may use stage carriages for 30 days without further licence, paying the duty as if licensed.]

Provision for death, &c.

See 5 & 6 Vict. c. 79. s. 9., post, p. 94.

30. If any carriage, whether licensed as a stage carriage or not, be found upon or near to any public highway, and any person ply for passengers to be conveyed by such carriage for hire at separate fares, such carriage not having placed and fixed thereupon the numbered plates required by this act to be fixed on stage carriages, the driver of

Penalty for plying for hire with carriages not having plates thereon.

Offenders may be apprehended, and conveyed before a justice of the peace.

Carriages may be driven to the green yard or other place for safe custody.

such carriage, or the person having the care thereof, or plying for passengers to be conveyed thereby, such driver or person not being the owner of such carriage, shall forfeit £10, and if he be the owner £20 ; and it shall be lawful for any constable or officer of stamp duties, without any warrant for that purpose, to apprehend such driver or other person having the care of such carriage or plying for passengers to be conveyed thereby, and to convey him before any justice having jurisdiction where the offence is committed, to be dealt with as herein-after mentioned ; and to drive or take the carriage not having such plates, with the horse or horses harnessed thereto or drawing the same, or to cause the same to be driven or taken to some public green yard, or some livery stables or other place of safety, and there to lodge the same for safe custody until the determination of such justice be known ; and the justice before whom such driver or other person is brought shall hear and determine such offence ; and in case the person convicted of any such offence be the owner of such carriage, and if the said penalty of £20, with all costs and expenses, and the expenses of taking such carriage and horse or horses to and keeping the same at such green yard, stables, or other place, be not paid or discharged within five days after such conviction, such carriage and horse or horses, with the harness used therewith, shall be sold by order under the hand of such justice, and the surplus (if any) of the produce of such sale, after deducting therefrom the said penalty, costs, and expenses, and the expenses of such sale, shall be rendered to such owner ; but in case the person so convicted be not the owner of such carriage, then on default being made in payment of the said penalty of £10, such justice shall commit the offender to the common gaol or house of correction for three calendar months, unless such penalty be sooner paid, and shall give an order for the delivering up of the carriage and horse or horses and harness to the owner thereof, on his paying the expenses of taking and keeping the same ; and in case of his refusal to pay such expenses forthwith, then such carriage and horse or horses and harness, or a sufficient part thereof to defray such expenses, shall be sold by order under the hand of such justice ; and after payment thereof of all such expenses as aforesaid, with the expenses of such sale, the surplus, if any, of the produce of such sale, together with such part of the carriage and horse or horses and harness as remains unsold, shall be rendered and restored to the owner.

Amended by 5 & 6 Vict. c. 79. s. 11., post, p. 94.

31. The proprietor or driver of any stage carriage duly licensed, and having thereon the proper numbered plates or plate, or any other person, may stand or ply with such carriage for passengers to be carried for hire, and take up, convey, and set down such passengers with or from such carriage at any place either within the distance of five miles from the general post office in the city of London or elsewhere, anything contained in an act passed in the last session of parliament for amending the laws relating to hackney carriages [1 & 2 Will. 4. c. 22.] notwithstanding; provided such stage carriage do not deviate from the proper route or line of road, if any be specified or described in the licence relating to such carriage, or do not go beyond the limits allowed by such licence.

Licensed stage carriages exempt from provisions of any act relating to hackney carriages;

but not to deviate from proper route.

32. [If any person forge, &c. any numbered plate directed to be provided, or which has been provided, made, or used in pursuance of this act, or wilfully place, or cause or suffer to be placed, upon any carriage, any such forged plate, or sell or exchange or expose to sale or utter any such forged plate, or knowingly and without lawful excuse (the proof whereof shall lie on the person accused) be possessed of any such forged plate, knowing such plate to be forged or counterfeited, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence as aforesaid, shall be adjudged guilty of a misdemeanor;] and it shall be lawful for any officer of stamp duties, or any constable or other peace officer, or any toll-gate keeper, to seize and take away any such plate, in order that the same may be produced in evidence against such offender, or be disposed of as the commissioners of stamps think proper.

Forging stage carriage plates, or using forged plates, &c., a misdemeanor.

33. If after the expiration or discontinuance of any licence granted to any person under this act, such person use, detain, or have in his possession the numbered plate or plates mentioned in such licence, or neglect to deliver the same to the commissioners of stamps or to their proper officer, or if any person use or detain or have in his possession any numbered plate or plates without having a licence in force relating to such plate or plates, or if any person use or detain or have in his possession any numbered plate or plates which has been recalled, whether the licence relating thereto be in force or not, it shall be lawful for any officer of stamp duties, or any constable or other peace officer, or any toll-gate keeper, to seize and take away

Plates detained after the expiration of licences, or used by persons not having licences in force, or recalled plates, may be seized.

Penalty for obstructing officers seizing such plates, £20.

any such plate or plates wheresoever found; in order to deliver the same to the said commissioners; and for the purpose of seizing and taking away any such plate or plates, or any forged plate or plates, it shall be lawful for such officer of stamp duties, constable, peace officer, or toll-gate keeper, to stop any carriage upon which the same may be placed; and any person who molests, obstructs, or hinders such officer, constable, peace officer, or toll-gate keeper in seizing or endeavouring to seize or take away such plate or plates as aforesaid shall forfeit £20.

Sections 34. and 35. relate to the carrying of a greater number of passengers than is authorized by the licence, and are virtually repealed by 5 & 6 Vict. c. 79. ss. 1, 2. 13., post, pp. 94, 95.

Particulars to be painted on stage carriages.

Penalty for neglecting to paint such particulars, £5.

36. No stage carriage shall be used unless nor until there be truly painted in words at length, and in legible and conspicuous letters, one inch at the least in height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters are painted, upon some conspicuous part of each side of such carriage, and clear of the wheel or wheels thereof, so that the same shall be at all times plainly and distinctly visible and legible, the Christian name and surname of the proprietor or of one of the proprietors of such carriage, and also the names of the extreme places from and to which such carriage is licensed to travel or go; [and greatest number of persons, or of inside and outside passengers licensed to be carried, to be painted on the back of the carriage;] and if any person use or employ any stage carriage upon which all such particulars as aforesaid are not truly painted in such legible and conspicuous letters and in manner aforesaid, or in case such particulars or any of them be partially obliterated or defaced from or upon any such carriage, then if any such person neglect to paint or cause to be painted again, in manner aforesaid, every particular so obliterated or defaced, such person so offending in any of the cases aforesaid shall forfeit £5.

See 5 & 6 Vict. c. 79. s. 14., post, p. 96., and 6 & 7 Vict. c. 86. s. 7., post, p. 100.

In what cases stage carriages not to carry outside passengers or luggage on the top.

37. No outside passenger nor any luggage shall be carried on the top or roof of any stage carriage the top or roof of which from the ground is more than eight feet nine inches, or the bearing of which on the ground is less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near

wheel; and if any outside passenger or luggage be carried on any such carriage in any manner contrary to the directions aforesaid, the driver of such carriage at the time when such offence is committed shall forfeit £5.

Penalty £5.

See 5 & 6 Vict. c. 79. s. 17., post, p. 97, and next note.

Section 37., as to outside passengers, and ss. 38. to 42., seem repealed by 3 & 4 Will. 4. c. 48. s. 1., post, p. 93; and see 5 & 6 Vict. c. 79. ss. 13. to 18., post, pp. 95-97.

43. [No luggage carried on the top of any stage carriage drawn by four or more horses to exceed 10 feet and nine inches in height from the ground, and luggage carried on the top of any stage carriage drawn by two or three horses only not to exceed 10 feet and three inches in height from the ground, under a penalty on driver of £5.]

Luggage on the top of any stage carriage not to exceed the height herein specified.

Penalty £5.

44. [No person to sit on luggage placed on the roof, or upon that part of the roof allotted for luggage, under a penalty of £5; and driver subjected to like penalty.]

Sitting on luggage, &c.

Penalty.

See also 3 & 4 Will. 4. c. 48. s. 4., post, p. 93.

45. [Justices, constables, road surveyors, toll collectors, and passengers authorized to cause stage carriages and luggage to be measured, and the passengers to be counted, &c.; penalty on the proprietor or driver for refusal, £5.]

Measuring carriages, &c.

See 5 & 6 Vict. c. 97. ss. 16. 18., post, p. 97.

46. [Enactments as to plates, inscriptions, outside passengers, and luggage not to extend to certain mail coaches.]

Saving for certain mail coaches.

Repealed as to plates by 5 & 6 Vict. c. 79. s. 12., post, p. 95.

47. If the driver of any stage carriage drawn by three or more horses at any place where such carriage stops quit the box, or the horses, without delivering the reins into the hands of some fit and proper person, or before some fit and proper person is at the heads of the horses or some of them, and has the command thereof;

Penalty on driver quitting the box before a proper person shall stand at the horses heads;

or if any person placed and standing at the heads of such horses leave them before some other proper person is placed and standing in like manner and has the command of the horses, or before the driver has returned and seated himself upon the box and taken the reins;

Penalty on leaving horses heads.

or if the driver of any stage carriage permit any passenger or person to drive;

Penalty on drivers permitting any person to drive, or quitting the box;

or if the driver of any stage carriage quit the box without reasonable occasion, or for a longer time than such occasion absolutely requires;

- or concealing
or misplacing
plates ;
 - on guard dis-
charging fire-
arms unne-
cessarily ;
 - on driver, &c.
neglecting to
take care of
luggage ;
 - or asking more
than the proper
fare ;
 - or neglecting to
account to his
employer ;
 - or assaulting or
using abusive
language to
any person.
- or if the driver of any stage carriage suffer any plate or the number on any plate placed thereon pursuant to this act to be in any manner concealed from public view, or suffer any such plate to be inverted or so placed that the number is not plainly legible ;
- or if any person travelling as guard to any stage carriage, whilst the horses are harnessed or being harnessed thereto, and whilst any passenger is in, upon, or about such carriage, discharge any fire-arms, except for the necessary defence of such carriage or the passengers or luggage ;
- or if the driver, conductor, or guard of any stage carriage neglect to take due care of any luggage carried or to be carried by such carriage ;
- or if any such driver, conductor, or guard demand or receive for the fare of any passenger more than such passenger is liable to pay, or more than is properly chargeable for the carriage of any luggage ;
- or if any such driver, conductor, or guard, when thereto required, neglect or refuse faithfully to account to his employer for all monies received by him in respect of any passenger or luggage carried by such carriage ;
- or if any such driver, conductor, or guard assault or use abusive or insulting language to any person travelling or about to travel or having travelled as a passenger by such carriage, or to any person accompanying or attending upon any such passenger in coming to or going from such carriage ;
- every such offender in any of the several cases aforesaid shall forfeit £5.

See 6 & 7 Vict. c. 86. ss. 28. 33., post, pp. 106, 107.

- Penalty on the
driver or
conductor, &c.
endangering
passengers or
property
through negli-
gence, &c., £5.
48. If the driver, conductor, or guard of any stage carriage, or other person having the care thereof, or employed about such carriage, through intoxication or negligence, or by wanton and furious driving, or by or through other misconduct, endanger the safety of any passenger or other person, or injure or endanger the property of the owner or proprietor of such carriage or of any other person, every such person so offending shall forfeit £5.

See 6 & 7 Vict. c. 86. s. 28. and references on 2d par. post, p. 106.

- Owners to be
liable for penal-
ties in cases
where driver or
guard is not
known, or
cannot be
found.
49. Whenever the driver, conductor, or guard of any stage carriage has committed any offence against this act for the commission whereof any penalty is by this act imposed upon such driver, conductor, or guard, and not upon the proprietor of such carriage, and is not known, or being known cannot be found, the proprietor shall be liable

to such penalty as if he had been the driver, conductor, or guard at the time when such offence was committed: Provided always, that if any such proprietor make out, to the satisfaction of the justice before whom any complaint or information is heard, by sufficient evidence not resting on his own testimony, that the offence was committed without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver, conductor, or guard, and given all reasonable information in answer to inquiries respecting him, such justice shall discharge the proprietor from such penalty, and levy the same upon such driver conductor or guard when found.

Sections 50-52. relate to the duties payable by railway companies.

Sections 53-98. (and in part s. 99.) relate to the duties on horses let for hire, and are repealed in general terms by 16 & 17 Vict. c. 88. s. 1., post, p. 119.

99. [Inspectors and collectors of duties may enter toll houses to check stage carriages, &c.] Checking stage carriages.

100. If any person receive any money or other consideration or reward of any kind for aiding or assisting in or for conniving at the commission of any offence against this act, he shall forfeit £20. Penalty on conniving at offences, £20.

101. [Duties recoverable as other stamp duties; duties and penalties recoverable with costs.] Recovery of duties, &c.

102. [Pecuniary penalties may be sued for in superior courts; consent of the commissioners of stamps requisite to sue for penalties.] Penalties may be sued for.

103. [Penalties not exceeding £20 recoverable before a justice; mode of proceeding by summons; penalty leviable by distress and sale; in default of distress, imprisonment; appeal to general or quarter sessions; proceedings not to be quashed for want of form, nor removed.] Certain penalties recoverable summarily,

See 2 & 3 Vict. c. 71. ss. 44, 45, 49, 50., ante, pp. 54-56.

104. [By whom penalties may be recovered before a by whom. justice.]

105. [Justices may mitigate penalties to not less than half] Mitigation of penalties.

See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

Application of penalties.

106. [Application of penalties.]

See 3 & 4 Will. 4. c. 48. s. 6., post, p. 93.

Crown's share how payable.

107. [Justices to receive the Crown's share of penalties, and pay the same to the clerk of the peace, to be remitted to the stamp office; penalty on the justice or clerk of the peace for neglecting to pay over the penalties received, £50.]

See 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Costs, &c. may be awarded to defendants.

108. [Justices empowered to award costs and compensation to defendants where informations or complaints other than by officers of stamp duties are withdrawn or dismissed.]

See 2 & 3 Vict. c. 71. s. 31., ante, p. 49.

Service of the justices summonses and other notices.

109. Any summons issued by any justice requiring any defendant, witness, or other person to appear with reference to any proceeding for the recovery of any duty or penalty under this act, shall be deemed to be well served in case the summons or a copy thereof be served personally upon such person as aforesaid, or left at his usual or last place of residence, or in case such person be a proprietor, driver, conductor, or guard of any stage carriage, be left with the person acting as book-keeper for such stage carriage in any town or place nearest to the place where any such offence is committed; and any notice by this act required to be given to the proprietor of any stage carriage or other person shall be deemed to be well served in case such notice or a copy thereof be served personally upon such proprietor or other person, or left at his usual or last place of residence, (or in the case of such proprietor) be left with any book-keeper at any office belonging to such proprietor.

See 2 & 3 Vict. c. 71. s. 20., ante, p. 45.

Penalty on constables refusing to serve a summons, warrant, &c., £10.

110. If any constable refuse or neglect to serve or execute any summons, warrant, or order granted, issued, or made by any justice, or two of the commissioners of stamps, pursuant to this act, every such constable shall forfeit £10.

See also 2 & 3 Vict. c. 47. s. 14., ante, p. 13.

Penalty on witnesses.

111. [Penalty on witnesses neglecting to attend before justices, or at sessions, £10.]

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

Forms.

113. [Proceedings may be drawn up according to the forms in Schedule (B).]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

114. [Carriages, horses, harness, &c., chargeable with the duties and penalties incurred ; persons selling or disposing of such carriages, &c. after notice to be liable to extent of the value thereof.] Carriages, &c. chargeable with duties, &c.

115. [In what manner goods distrained under this act shall be sold.] Sale of goods distrained.

116. [Actions, &c. for anything done under this act to be prosecuted within three calendar months ; venue ; one calendar month's notice in writing of action and of the cause thereof to be given ; general issue ; tender of amends or payment into court ; costs.] Actions, &c.

See 5 & 6 Vict. c. 97., post, p. 413, and 15 & 16 Vict. c. 76. (Common Law Procedure.) s. 70.

117. [Construction of terms used in this act ; " His Majesty," " officer of stamp duties," " proprietor," " licensed postmaster," " horse," " horses," " toll-gate," " toll-gate keeper," " driver," " luggage."] Interpretation.

118. [Powers and provisions of other stamp acts in force to extend to this act.] Stamp acts applied.

[Schedules.]

[STAGE CARRIAGES (GREAT BRITAIN) and HACKNEY CARRIAGES, METROPOLIS.

3 & 4 WILL. 4. c. 48.

[Sect. 1. repeals so much of 2 & 3 Will. 4. c. 120. as relates to the number or distribution of outside passengers carried by any stage carriage, or as requires a separate division for luggage on the roof.] Outside passengers and luggage.

Sects. 2, 3, relating to the number of passengers to be carried, seem virtually repealed by 5 & 6 Vict. c. 79. ss. 13-17., post, pp. 95-97.

4. [No person to sit on luggage on the roof, nor more than one person besides the driver on the box, under a penalty on driver of £5.] Penalty for sitting on luggage, &c.

See also 2 & 3 Will. 4. c. 120. s. 44., ante, p. 89.

5. [Penalties may be recovered before a justice as under 2 & 3 Will. 4. c. 120.] Recovery of penalties.

6. [All pecuniary penalties incurred under this act, and under 2 & 3 Will. 4. c. 120., or either of them, by whom- Application of penalties.

soever recovered, to go to the Crown, and be paid to the solicitor of stamps in manner directed by said act, and be deemed part of the revenue arising from stamp duties; the commissioners of stamps may give all or any part of any such penalties as rewards to persons who have detected the offences for which such penalties have been incurred, or who have given information which may have led to the discovery thereof or to the conviction.]

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Steam
carriages.

7. [1 & 2 W. 4. c. 22. not to extend to steam carriages.]

STAGE CARRIAGES (GREAT BRITAIN.)

5 & 6 VICT. c. 79.

Duties
repealed.

Sect. 1. [Mileage duties granted by 2 & 3 Vict. c. 66.* and stage carriage licence duties granted by 2 & 3 Will. 4. c. 120. repealed.]

New duties.

2. [New duties to be levied, as set forth in the Schedule.]

Duties altered by 18 & 19 Vict. c. 78. s. 1.

Dies, &c.

3. [Commissioners to prepare dies, &c.]

Sects. 4-7 relate to railways.

Commence-
ment of
licences.

8. [Commencement of stage carriage licences.]

This amends 2 & 3 Will. 4. c. 120. s. 13..

Supplementary
licences.

9. [Supplementary licences may be granted for a different route, or to widow or child of a deceased person, but not to minors.]

This amends 2 & 3 Will. 4. c. 120. s. 16.

Copies,
evidence.

10. [Certified copies of licences to be evidence.]

This amends 2 & 3 Will. 4. c. 120. s. 11.

2 & 3 W. 4.
c. 120. s. 30.
recited

11. Whereas [recites 2 & 3 Will. 4. c. 120. s. 30., *ante*, p. 85, relating to stage carriages plying for hire without plates]; and it is expedient to amend the said provision by extending the same to the cases herein-after mentioned:

and amended.

If any stage carriage, whether licensed or not, be used upon any public highway for the purpose of carrying or conveying any passengers, one or more of whom shall be

* This act repealed the mileage duties granted by 2 & 3 Will. 4. c. 120.

charged or pay separate and distinct fares, or a separate and distinct fare, or at the rate of separate and distinct fares, for their respective places or seats, or his place or seat therein, or conveyance thereby, such carriage not having placed and fixed thereupon the numbered plates required by the last-mentioned act to be fixed on stage carriages, the driver and the conductor or guard thereof, or other person having the direction, management, or care thereof, or assisting therein, shall forfeit £10, or if he be the owner, £20; and it shall be lawful for any officer of stamp duties, without any warrant for that purpose, with or without the aid and assistance of any constable or other person, at any place where the journey for the performance of which such carriage shall be used shall terminate, or on the return of such carriage to the place from whence such journey commenced, to apprehend such driver, and such conductor, guard, or other person, and to convey him before any justice having jurisdiction where the offence is committed, to be dealt with as herein-after and as in the last-mentioned act is mentioned; and to seize and take such carriage, with the horse or horses harnessed thereto, or drawing or having drawn the same, and to drive or take the same, or to cause the same to be driven or taken, to some public green yard or some livery stables, or other place of safety, and there to lodge the same for safe custody until the determination of such justice be known; and such justice shall proceed therein as in the last-mentioned act is provided in relation to the offences before described.

[Every such penalty, &c. to be recovered as provided by said act.]

Provided always, that nothing in this act contained shall in any way affect or alter, or be deemed to affect or alter, the provision contained in the said last-mentioned act, so far as the same relates to the offence herein-before described.

12. [2 & 3 Will. 4. c. 120. s. 46., excepting mail coaches from the regulations as to plates, repealed.] Plates on mail coaches.

13. No stage carriage shall be allowed to carry at one time a greater number of passengers in the whole, or in the inside or on the outside thereof, than the same is constructed to carry according to the regulations of this act; and no such carriage shall be deemed to be constructed to carry a greater number of passengers than the same will contain at one time, upon fit and proper seats provided therein or thereupon for that purpose, allowing for every passenger, on an average, upon each and every separate No stage carriage to carry a greater number of passengers than it is constructed to carry.
What number of passengers a carriage shall be deemed to be

constructed to carry.

seat; a space convenient for sitting thereon of 16 inches, measuring in a straight line lengthwise on the front of each seat: Provided always, that no child under five years of age, sitting in the lap, shall be deemed a passenger within the meaning of this act.

The number of passengers which a carriage is constructed to carry to be painted thereon.

If any stage carriage be used without having the proper particulars painted thereon, penalty £10.

14. No stage carriage shall be used or employed unless nor until there be truly painted, in words at length, and in legible and conspicuous Roman letters, one inch at the least in height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters are painted, and in one or more straight horizontal line or lines, upon some conspicuous part on the outside of such carriage, at the back thereof, and also in the inside thereof, and where the same is constructed to carry passengers in different compartments, then in each such compartment, and so that the same shall be at all times plainly and distinctly visible and legible, the number of passengers which such carriage is constructed to carry according to this act in the whole, and on the outside and in the inside thereof respectively, and in each such compartment; and if any stage carriage be used or employed without having all and every such particulars painted thereon in manner aforesaid, or be used or employed having thereon or in or on any part thereof any words or figures, or any particulars whatever, specifying or importing, or tending or intended to signify or import, that the same is constructed or in any way authorized to carry a greater number of passengers in the whole, or on the outside or in the inside thereof respectively, or in any compartment thereof, than the same is truly constructed to carry according to the regulations of this act, the proprietor thereof shall forfeit £10.

See 2 & 3 Will. 4. c. 120. s. 36., ante, p. 88, and 6 & 7 Vict. c. 86. s. 7., post, p. 100.

If any greater number of passengers be carried than the carriage is constructed to carry or than the particulars specify, penalty £5.

15. If the number of passengers at any one time conveyed in, upon, or about any stage carriage be greater in the whole, or upon or about the outside thereof, or in the inside thereof, or in any compartment thereof respectively, than the same is constructed to carry, according to the regulations of this act, or than any particulars painted thereon specify in the whole, or upon the outside thereof, or in the inside thereof, or in any compartment thereof respectively, the driver and conductor or guard thereof for the time being respectively shall forfeit £5.

16. It shall be lawful for any constable at any time, and for any person travelling or having immediately before travelled by any stage carriage, in any case where he has reason for believing or suspecting that a greater number of passengers are carried or are about to be carried, or have immediately before, or at any time during the journey last performed, been carried, by such stage carriage, to measure the seats or any of the seats in or upon such carriage, in order to ascertain the length thereof respectively, or the number of passengers which the said carriage is constructed to carry; and if any person refuse to permit the seats in or upon any such stage carriage to be measured, or by any means or in any way prevent or attempt to prevent any constable or other such person as aforesaid from or hinder or obstruct him in measuring the same, the person so offending shall forfeit for every such offence £5.

Any constable or passenger may measure the seats.

Penalty for refusing to permit the measuring of the seats, £5.

17. No stage carriage the top or roof of which is more than eight feet nine inches from the ground, or the bearing of which on the ground is less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel, shall be allowed to carry in any case more than the number of outside passengers herein-after mentioned; (that is to say,) not more than five outside passengers where such carriage is constructed to carry, according to the regulations of this act, not exceeding nine passengers in the whole; not more than eight outside passengers where such carriage is constructed to carry, according to the said regulations, in the whole exceeding nine and not exceeding 12 passengers; not more than 11 outside passengers where such carriage is constructed to carry, according to the said regulations, in the whole exceeding 12 and not exceeding 15 passengers; not more than 12 outside passengers where any such carriage is constructed to carry, according to the said regulations, in the whole exceeding 15 and not exceeding 18 passengers; and not more than two additional outside passengers for every three additional passengers which any such carriage is constructed to carry, according to the said regulations, in the whole; and if any greater number of outside passengers be carried by any such stage carriage as aforesaid than is herein-before specified and allowed, the driver of such stage carriage, and the conductor or guard thereof, at the time when such offence shall be committed, shall respectively forfeit £5.

Number of passengers allowed to be carried on the outside of stage carriages.

18. Nothing in this act shall affect any of the provisions in 2 & 3 Will. 4. c. 120. relating to stage carriages, now

Not to alter regulations of 2 & 3 W. 4.

c. 120. not inconsistent with this act.

Recovery of penalties for offences relating to stage carriages.

in force, not inconsistent with the regulations and provisions herein contained ; and all the provisions in the said act relating to the recovery of penalties before any justice shall be applied for the recovery of any penalty under this act : Provided always, that it shall be lawful for any person to prosecute for any penalty incurred as well by the owner or proprietor of any stage carriage as by the driver, conductor, or guard thereof, under this act, so far as relates to the particulars to be painted on stage carriages, or to carrying a greater number of passengers by any stage carriage than the same is constructed to carry, or than is allowed by this act, provided the information be exhibited or complaint made within 10 days after the offence has been committed : Provided also, that where by this act any penalty is imposed upon the driver and conductor or guard of any stage carriage respectively for one and the same offence, only one prosecution shall be had or maintained for the recovery of such penalty against such driver or conductor or guard, at the option of the person prosecuting.

Evidence in prosecutions relating to the carrying of passengers by stage carriages.

19. In any prosecution for the recovery of any penalty relating to the carrying of passengers by any stage carriage, or to the number of passengers which any stage carriage is constructed to carry, if proof be made of the due admeasurement of the height or bearing of such stage carriage, or of the seat or any of the seats in or upon any such carriage, or of the particulars painted thereon, the same shall be received as evidence thereof without production of such carriage.

Sections 20-23 do not relate to stage carriages.

Stamp acts applied.

24. [Penalties imposed by this act may be recovered as any penalty under any act relating to the stamp duties, and provisions of every such act to be applicable.]

Interpretation.

25. [Words importing the singular number and masculine gender to include several persons or things and bodies corporate and females.]

HACKNEY AND STAGE CARRIAGES, WAGGONS, CARTS, &c.,
METROPOLIS.

6 & 7 VICT. c. 86.

1. [1 & 2 Vict. c. 79. repealed.]

2. In this act (except where the nature of the provisions or the context of the act shall exclude such construction) Meaning of certain words used in this act.

“Hackney carriage” shall include every carriage (except a stage carriage) which shall stand on hire or ply for a passenger for hire at any place within the limits of the city of London and the liberties thereof, and Metropolitan Police District ;

“Metropolitan Stage Carriage” shall include every stage carriage except such as shall on every journey go to or come from some town or place beyond the limits aforesaid ;

“Proprietor” shall include every person who, either alone or in partnership with any other person, shall keep any hackney carriage or any metropolitan stage carriage, or who shall be concerned otherwise than as a driver or attendant in employing for hire any hackney carriage or any metropolitan stage carriage ;

“Conductor” shall include every director or other person, except the driver, who shall attend upon the passengers in any metropolitan stage carriage ;

“Waterman” shall include every person supplying water to the drivers of hackney carriages at the standings or places where hackney carriages usually stand or ply for hire, and every person assisting the drivers at such standings in managing or taking care of the horses or carriages, and every attendant upon any metropolitan stage carriage at places where such carriages usually stop or ply for passengers ;

“Passenger” shall include every person carried by any hackney carriage, or by any metropolitan stage carriage, except one driver, and where there is a conductor to such metropolitan stage carriage, one conductor ;

And “horse” shall include every mare and gelding ;

And every word importing the singular number only shall extend to several persons and things, and every word importing the masculine gender only shall extend to a female.

3. [Provisions of 1 & 2 Will. 4. c. 22. as to hackney carriages extended to this Act]. 1 & 2 Will. 4. c. 22. applied.

4. [Title and place of abode of a peer painted on any cart, &c. to be deemed a compliance with the provisions of 1 & 2 Will. 4. c. 22. s. 59.] Name on cart, peer.

Registrar.

5. [Appointment of registrar of metropolitan public carriages.]

Office of registrar abolished, and duties, &c. transferred to Commissioners of Police, by 13 & 14 Vict. c. 7. ss. 1, 2., post, p. 111.

Particulars to be painted on metropolitan stage carriages;

7. The proprietor of every metropolitan stage carriage shall keep distinctly painted on the outside and inside of the same, in such manner and position as shall from time to time be directed by the registrar, the words "metropolitan stage carriage," or such other words as the registrar shall direct, with the number of the stamp office plate; and shall also, on the inside of every such carriage, keep distinctly painted in a conspicuous manner a table of fares to be demanded of passengers by such carriage; and the fares therein specified shall be deemed to be the only lawful fares, and may be recovered by the driver or conductor, as in the case of hackney carriages, in a summary way, before any justice; and every proprietor making default in the premises shall forfeit 20s. for every offence.

recovery of fare.

See 1 & 2 Will. 4. c. 22. s. 41., ante, p. 75. See also 2 & 3 Will. 4. c. 120. s. 36., ante, p. 88, and 5 & 6 Vict. c. 79. s. 14., ante, p. 96.

Registrar to grant licences to drivers, conductors, and watermen.

8. It shall be lawful for the registrar to grant a licence to act as driver of hackney carriages, or as driver or as conductor of metropolitan stage carriages, or as waterman, (as the case may be,) to any person who produces such a certificate as shall satisfy the said registrar of his good behaviour and fitness for such situation: Provided always, that no person shall be licensed as such driver as aforesaid who is under 16 years of age; [particulars to be specified in licences; licence to bear date on the day on which it is granted, and continue in force until and upon the 1st of June next, or if granted in May, then until and upon the 1st of June in the year next following that in which the same is granted, except in either case the same be sooner revoked, and except the time (if any) during which any such licence is suspended; and on licence of driver or conductor, registrar to cause columns to be prepared, in which every proprietor employing driver or conductor to enter his own name and address, and the days on which driver or conductor enters and quits his service; and if any of the particulars entered or endorsed upon any licence be erased or defaced licence to be void; registrar at the time of granting any licence to deliver to driver, conductor, or waterman an abstract of the laws in force relating to such driver, conductor, or water-

At the time of granting any licence, an abstract of the

man, and of the penalties to which he is liable for misconduct, and a metal ticket.] laws and a ticket to be given.

This seems virtually repealed as to watermen by 16 & 17 Vict. c. 33. ss. 12, 13., post, pp. 115, 116.

9. [A stamp duty of 5s. on every licence granted under this act.] Duty on licence.

10. It shall not be lawful for any person to act as driver of any hackney carriage, or driver or conductor of any metropolitan stage carriage, or as a waterman, within the limits of this act, unless such person have a licence so to do, and a ticket granted to him under this act, and in force; and every person acting without such licence and ticket, and every licensed waterman acting at any other standing or place than those mentioned in his licence, and every person to whom a licence and ticket have been granted, who, except in compliance with this act, transfers or lends such licence, or permits any other person to use or wear such ticket, shall for every such offence forfeit £5; and every proprietor who knowingly suffers any person not licensed under this act to act as driver of any hackney carriage, or driver or conductor of any metropolitan stage carriage, of which he is the proprietor, shall for every such offence forfeit £10; provided always, that nothing hereinbefore contained shall subject to any penalty any proprietor who employs any unlicensed person to act as such driver or conductor for not exceeding 24 hours, or any unlicensed person so employed for the said time, upon proof being adduced by the proprietor, to the satisfaction of the justice before whom such proprietor, driver, or conductor is required to attend to answer for such offences respectively, that such employment was occasioned by unavoidable necessity; and every proprietor who so employs such unlicensed driver or conductor, and every such unlicensed driver or conductor, shall be subject to all the powers, provisions, and proceedings of and under this act or 1 & 2 Will. 4. c. 22. for any act done by such driver or conductor during such employment, as if he had been duly licensed.

Penalty on persons acting as drivers, &c. without licences and tickets, £5;

on proprietors suffering drivers or conductors so to do, £10.

See as to watermen the note on s. 8.

Sections 11, 12, 13 relate to watermen, and seem virtually repealed by 16 & 17 Vict. c. 33. ss. 12, 13., post, pp. 115, 116.

14. [Persons applying for licences to sign a requisition for the same in such form as registrar may appoint, accom-

Requisition for licence.

panied by the certificate herein-before required; every person attempting to procure licence by false representation or by forged recommendations, or not truly answering questions demanded of him in relation to application for licence, and every person to whom reference is made who, in regard to such application, wilfully and knowingly makes any misrepresentation, shall forfeit £5; registrar may proceed for penalty before any magistrate within one calendar month after commission of offence, or during currency of licence.]

Notice of
change of
abode of
drivers, &c.

15. [Written notice to be given to the registrar by drivers, conductors, and watermen of any change of abode, which is to be endorsed by registrar on licence; penalty on driver, &c. neglecting for two days to give notice and produce licence for endorsement, 20s.; not necessary for proprietor of hackney carriage to give to commissioners of sewers, at the guildhall, the account required by 1 & 2 Will. 4. c. 22. s. 14.]

See note on s. 8. ante, as to watermen.

Entry of
licences;
copies
evidence.

16. [Particulars of licences to be entered in a book at the registrar's office, and certified copies (which are to be delivered gratis) to be evidence.]

Tickets to be
worn by
drivers, &c.

17. Every licensed driver, conductor, and waterman shall at all times during his employment, and when required to attend before any justice, wear his ticket conspicuously upon his breast, in such manner that the whole of the writing thereon shall be distinctly legible; and every driver, conductor, or waterman who acts as such, or who attends when required before any justice, without wearing such ticket in manner aforesaid, or who, when thereunto required, refuses to produce such ticket for inspection, or to permit any person to note the writing thereon, shall for every such offence forfeit 40s.

See note on s. 8. ante, as to watermen.

Licences and
tickets to be
delivered up on
the expiration
of licences;
penalty.

18. Upon the expiration of any licence granted under this act the person to whom such licence was granted shall deliver such licence and the ticket relating thereto to the said registrar; and every person who wilfully neglects for three days so to deliver the same, and every person who uses, wears, or detains any ticket, without having a licence in force relating thereto, or who for the purpose of deception uses, wears, or has any ticket resembling or intended to resemble any ticket granted under this act, shall for every such offence forfeit £5; and it shall be lawful for

the registrar, or any person employed by him for that purpose, to prosecute any person so neglecting to deliver up his licence or ticket at any period within 12 calendar months after the expiration of the licence; and it shall be lawful for any constable, or any person employed for that purpose by the registrar, to seize and take away any such ticket, wheresoever found, in order to deliver the same to the registrar.

19. Whenever the writing on any ticket becomes obliterated or defaced, so that the same is not distinctly legible, and whenever any ticket is proved to the satisfaction of the registrar to have been lost or mislaid, the person to whom the licence relating to such ticket was granted shall deliver such ticket (if he have the same in his possession), and produce such licence to the registrar, and shall then be entitled to have a new ticket, upon payment, for the use of Her Majesty, of such sum not exceeding 3s. as the registrar may appoint: Provided always, that if any ticket proved as aforesaid, or represented to have been lost or mislaid, be afterwards found, the same shall forthwith be delivered to the registrar; and every person who refuses or neglects for three days to deliver the same to the registrar, and every person licensed under this act who uses or wears the ticket granted to him after the writing thereon is obliterated, defaced, or obscured, so that the same is not distinctly legible, shall for every such offence forfeit 40s.

New tickets to be delivered instead of defaced or lost tickets.

20. [Forgery of licence or ticket, or knowingly having or uttering a forged licence or ticket, a misdemeanor;] and it shall be lawful for any person to detain any such licence or ticket, or for any constable or any person employed for that purpose by the registrar, to seize and take away any such licence or ticket, in order that the same may be produced in evidence against such offender or be disposed of as the registrar thinks proper.

Forgery of licence or ticket.

21. Every proprietor of a hackney carriage and metropolitan stage carriage shall require to be delivered to him, and retain in his possession, the licence of the driver or conductor thereof while in his service; and in all cases of complaint where such proprietor is summoned to produce the driver or conductor before a justice, he shall also produce the licence of such driver or conductor, if at the time of receiving the summons such driver or conductor be in his service; and if any driver or conductor be adjudged guilty of the offence alleged against him, the justice before whom he is convicted shall endorse upon the licence of such

Proprietor to retain the licence of drivers or conductors employed by him, and produce them in case of complaint.

driver or conductor the nature of the offence, and the amount of the penalty inflicted ; and every proprietor who neglects to require to be delivered to him, and to retain in his possession, the licence of any driver or conductor during such period as such driver or conductor remains in his service, or who refuses or neglects to produce such licence as aforesaid, shall for every such offence forfeit £3.

Disputes.

22. [Any justice to hear and determine disputes, &c. between any proprietor of a hackney or metropolitan stage carriage and driver or conductor.]

See also 1 & 2 Will. 4. c. 22. s. 29., ante, p. 74.

Agreements
between
drivers, &c. and
proprietors to
be in writing.

23. Provided always, that it shall not be lawful in any court of law, or before any justice, to enforce payment of any money claimed from any driver or conductor by any proprietor on account of earnings unless under an agreement in writing, signed by such driver or conductor in the presence of a competent witness ; and no such agreement shall be liable to stamp duty.

Delivery up of
licences.

24. [Proceedings with respect to delivery up of drivers or conductors licences on quitting service.]*

Licences may
be revoked or
suspended.

25. [Licences may be revoked or suspended by any justice before whom driver or conductor is convicted of any offence, and the justice may require the proprietor, driver, or conductor in whose possession such licence and the ticket shall be to deliver them up ; penalty for neglect or refusal £5 ; justice to send such licence and ticket to the registrar, who shall cancel licence if revoked, or, if suspended, shall, at the end of the time for which it is suspended, re-deliver same, with the ticket, to the person to whom it was granted.]

Hackney car-
riage plates
may be seized
where the
licence is dis-
continued or
revoked, or
where the same
are used with-
out licence.

26. Where any hackney carriage licence has been discontinued or revoked, and the stamp office numbered plate in respect of the same has not been delivered up to the commissioners of stamps and taxes or their proper officer, or where any hackney carriage plate has been recalled, under 1 & 2 Will. 4. c. 22., by such commissioners or officer, and the same has not been delivered up as by law required, and in any case where any hackney carriage plate is in the possession of or used by any person who has not a licence

* An action is maintainable against a proprietor of a hackney or stage carriage for defacing the licence of a driver or conductor by writing thereon words signifying that the driver or conductor has been dismissed for dishonesty or other misconduct. *Hurrell v. Ellis*, 2 Common Bench Rep., 295. *Rogers v. Macnamara*, 14 Common Bench Rep. 27.

in force relating to the same, it shall be lawful for any officer of stamp duties or any constable to seize and take away any such plate, wheresoever found, in order to deliver the same to the said commissioners; and for the purpose of seizing and taking away any such plate or any forged or counterfeit plate, it shall be lawful for any such officer of stamp duties or constable to stop any carriage in or upon which the same may be; and any person who molests, obstructs, or hinders any such officer of stamp duties or constable in seizing or endeavouring to seize or take away any such plate shall forfeit £5; and if in any such case where any such plate is found in the possession of any person who has not a licence in force relating to the same it appears to the satisfaction of the said commissioners that the said plate is or was so possessed by such person for the purpose of being used with the consent of the person to whom the licence relating to the same was granted, or that such licensed person had parted with the same for the purpose of being used by any other person, and also in any case where any plate has been recalled as aforesaid and not delivered up, it shall be lawful for the said commissioners, if they think proper, to revoke the licence to which such plate relates.

Penalty for obstructing officer, £5.

Licences may be revoked in certain cases.

See 16 & 17 Vict. c. 127. s. 10., post, p. 120.

27. Every driver or conductor authorized to act as driver of any hackney carriage or driver or conductor of any metropolitan stage carriage, who suffers any other person to act as such driver or conductor without the consent of the proprietor, and every person, whether licensed or not, who acts as driver or conductor of any such carriage without the consent of the proprietor, shall forfeit 40s.; and every driver or conductor charged with such offence, who, when required by a justice so to do, does not truly make known the name and place of abode of the person so suffered by him to act as driver or conductor without consent of the proprietor, and the number of the ticket of such person (if licensed), shall be liable to a further penalty of 40s.; and it shall be lawful for any police constable, without any warrant for that purpose, to take into custody any person unlawfully acting as driver or conductor or as waterman, and to convey him before any justice, to be dealt with according to law, and, if necessary, to take charge of the carriage and every horse in charge of such person, and to deposit the same in some place of safe custody until the same can be applied for by the proprietor.

Penalty for allowing any person to act as driver or conductor without consent of proprietor, and on person so acting, &c.

See note on s. 8. ante, as to watermen.

Punishment
for furious
driving, and
wilful misbe-
haviour.

28. Every driver of a hackney carriage, or driver or conductor of a metropolitan stage carriage, guilty of wanton or furious driving ;

or who by carelessness or wilful misbehaviour causes hurt or damage to any person or property being in any street or highway ;

See 2 & 3 Vict. c. 47. s. 54., par. 5., ante, p. 27 ; 5 & 6 Will. 4. c. 50. s. 78., post, pp. 281, 282 ; 3 Geo. 4. c. 126. s. 130., post, p. 287, and 24 & 25 Vict. c. 100. s. 35., post, p. 519.

and every driver, conductor, or waterman who during his employment shall be drunk, or make use of insulting or abusive language, or shall be guilty of any insulting gesture or any misbehaviour,

shall for every such offence forfeit £3. ; or it shall be lawful for the justice before whom such complaint is brought, if in his discretion he think proper, instead of inflicting such penalty, forthwith to commit the offender to prison for not exceeding two calendar months, with or without hard labour, as the justice shall direct ;

and in every case where any such hurt or damage has been caused the justice, upon the hearing of the complaint, may adjudge, as and for compensation to any party aggrieved as aforesaid, a sum not exceeding £10, and may order the proprietor of the carriage, the driver or conductor of which has caused such hurt or damage, forthwith to pay such sum, and also such costs as have been incurred, and payment thereof may be enforced against such proprietor as any penalty or sum of money may be recovered under this act ; and any sum so paid by the proprietor shall in like manner be recovered in a summary way before a justice from the driver or conductor through whose default such sum has been paid, upon proof of the payment thereof, pursuant to the order of the justice, or it shall be lawful for the justice in the first instance to adjudge the amount of such compensation to be paid by such driver or conductor to the party aggrieved.

See 1 & 2 Will. 4. c. 22. s. 56., ante, p. 78, 2 & 3 Will. 4. c. 120. ss. 47, 48., ante, p. 90., 2 & 3 Vict. c. 47. s. 62., ante, p. 33., and 18 & 19 Vict. c. 126. s. 22., post, p. 383 ; and as to watermen, see note on s. 8., ante.

Standings for
hackney car-
riages to be
appointed, &c.

29. [Commissioners of Police of the Metropolis to appoint standings for hackney carriages], and also to make regulations for enforcing order at the places at which metropolitan stage carriages shall call or ply for passengers, and for fixing the time during which each such carriage shall be allowed to remain at any such place ; and every driver of

a hackney carriage, and every driver or conductor of a metropolitan stage carriage, who wilfully disregards or does not conform himself to such regulations, shall for every such offence forfeit 40s.

See 13 & 14 Vict. c. 7. s. 4., post, p. 111.

30. [Standings to be in the centre of streets, unless in the case of a street with houses only on one side.]

See 13 & 14 Vict. c. 7. s. 4., post, p. 111.

31. [Nothing herein or in any other act to be construed to authorize hackney carriages to stand or ply opposite general post office.]*

32. [Lord Mayor and Aldermen to make regulations with respect to carriages, &c. in the city and the borough.]

This seems virtually repealed, as to the borough, by 13 & 14 Vict. c. 7. s. 4., post, p. 111.

33. Every driver of a hackney carriage who plys for hire elsewhere than at some standing or place appointed for that purpose ;

or who by loitering or by wilful misbehaviour causes obstruction in any public street, road, or place ;

and every driver or conductor of any metropolitan stage carriage who by loitering or wilful misbehaviour causes obstruction in any public street, road, or place ;

or improperly delays such carriage on any journey ;

or wilfully deceives any person in respect to the route or destination thereof ;

or who refuses to admit and carry at the lawful fare any passenger for whom there is room, and to whose admission no reasonable objection is made ;

or who demands more than the legal fare for any passenger ;

or who, for the purpose of taking up or setting down a passenger, or, except in case of accident or other unavoidable necessity, stops such carriage opposite to the end of any street, or upon any place where foot passengers usually cross the carriageway ;

or who plies for hire or passengers by blowing a horn, or using any other noisy instrument within the limits of the metropolis as defined by 1 & 2 Will. 4. c. 22. ;

and every conductor of a metropolitan stage carriage who allows any person beside himself to ride upon the steps or in the place provided for him ;

and every driver of a hackney carriage, whether hired or unhired, allowing any person besides himself, not being

Penalty on drivers of hackney carriages or drivers or conductors of metropolitan stage carriages, for loitering or causing any obstruction, or plying for hire by making any noise, &c.

* No hackney carriage to stand or ply opposite the general post office, under a penalty of £5. 7 Will. 4. and 1 Vict. c. 36. s. 8.

the hirer or a person employed by such hirer, to ride on the driving box ;

and every driver or conductor of any metropolitan stage carriage who smokes whilst acting in such capacity after an objection taken by any person riding in or upon such carriage,

shall for every such offence forfeit 20s.

See 1 & 2 Will. 4. c. 22. ss. 50, 51., ante, p. 77 ; 2 & 3 Will. 4. c. 120. s. 47., ante, p. 90, and 2 & 3 Vict. c. 47. s. 54., par. 14., ante, p. 28.

34. [Property left in stage carriages.]

Virtually repealed by 16 & 17 Vict. c. 33. s. 11., post, p. 114.

Proprietors may be summoned to appear, and to produce the driver or conductor.

35. When any complaint is made before any justice against the driver of any hackney carriage, or driver or conductor of any metropolitan stage carriage, for any offence committed by him against this act, or 1 & 2 Will. 4. c. 22., or any order or regulations made in pursuance of this act, it shall be lawful for such justice, if he think proper, forthwith to summon the proprietor of such carriage to produce before him, or such other justice as shall be then present, such driver or conductor to answer such complaint ; and in case such proprietor, after being duly summoned, fail to produce the driver or conductor, it shall be lawful for the justice before whom such driver or conductor should be produced (if he think fit) to proceed, in the absence of such driver or conductor, to hear and determine the case in the same manner as if he had been produced, and to adjudge payment by the proprietor of any penalty or sum of money and costs in which the driver* shall be convicted ; and any sum of money so paid by the proprietor shall be recovered in a summary way from the driver or conductor by whose default such sum has been paid, upon proof of payment thereof, pursuant to the order of the justice, and upon proof of service of the notice herein-after mentioned : Provided always, that if the justice deem it proper, it shall be lawful for him when such proprietor fails to produce his driver or conductor, without satisfactory excuse allowed by such justice, to impose a fine of 40s. upon such proprietor, and so from time to time as often as he is summoned in respect of such complaint until he produce his driver and conductor ; and every proprietor so summoned to produce his driver or conductor shall cause to be given to such driver or conductor, or to be left at the abode specified in his licence, or (if such licence expire after the offence committed and before the hearing of the complaint) at his usual place of abode, a written notice of the time

* Sic.

In case of proprietors failing so to do.

and place when and where such driver or conductor is required to attend; and if such driver or conductor do not attend according to such notice, it shall be lawful for a justice to issue a warrant for his apprehension, and if after such notice any driver or conductor, without a reasonable excuse to be allowed by the justice, neglect or refuse to attend at the time and place therein mentioned, or (having previously left the service of the proprietor so summoned as aforesaid) do not at the time and place of his attendance produce his licence, he shall forfeit 40s., and so from time to time as often as he so neglects or refuses.

See 1 & 2 Will. 4. c. 22. s. 26., ante, p. 73. See also a similar provision to the above as regards offences against the act for preventing cruelty to animals in 12 & 13 Vict. c. 82. s. 22., post, p. 142.

36. It shall be lawful for any magistrate specially appointed under the authority of 1 & 2 Will. 4. c. 22. for the purpose of hearing and determining offences against that act, or such other magistrate as shall be in attendance at the office appointed in that behalf, to hear and determine any complaint for any offence against this act or any act now in force or hereafter to be in force, wheresoever the cause of complaint may arise within the city of London or the liberties thereof, or elsewhere within the limits of this act, so far as the same relates to hackney carriages or metropolitan stage carriages, or watermen, in like manner as if such provisions had been included in the aforesaid act.

Magistrate empowered to hear and determine complaints.

See s. 39. post, and 1 & 2 Will. 4. c. 22. s. 62., ante, p. 80, and 16 & 17 Vict. c. 33. s. 18., post, p. 117; and as to watermen, see note on s. 8. ante.

37. [Upon hearing of complaint under provisions of this act, or 1 & 2 Will. 4. c. 22., or of the orders and regulations aforesaid, justice may take evidence of informant or complainant in dispute concerning amount of fare paid or demanded, or in dispute between proprietor and driver or conductor of hackney or metropolitan stage carriage concerning wages, or in complaint of personal injury done by driver of any such carriage, or in any case in which informant or complainant is entitled to no pecuniary advantage besides costs and expenses, or, being entitled to some compensation or pecuniary advantage, either gives up all claim thereto or is not the only witness.]

As to evidence of complainant.

But see 18 & 19 Vict. c. 126. s. 22., post, p. 383. See also 1 & 2 Will. 4. c. 22. s. 72., ante, p. 82.

38. [Complaints under 1 & 2 Will. 4. c. 22. or this act to be made within seven days except where made by com-

Limitation of time for complaints.

missioners of stamps, or any other limitation is specially provided.]

Penalties may
be awarded to
be paid by
instalments.

39. It shall be lawful for any justice to hear and determine all complaints under this act or 1 & 2 Will. 4. c. 22., and to adjudge the payment of any penalty or of any sum of money under either of the said acts, or of the orders and regulations made pursuant to either of them, and to order payment of the same, with or without costs, either immediately, or at such time and place, and by such instalments, as he thinks fit; [in case of nonpayment the party may be imprisoned, or a distress made, and in default of sufficient distress party may be imprisoned; proceedings before a justice under this act or 1 & 2 Will. 4. c. 22., and the judgment thereon, to be final, and not to be quashed for want of form, or removed.]

See s. 36. ante, and 1 & 2 Will. 4. c. 22. s. 63., ante, p. 80, and 2 & 3 Vict. c. 71. ss. 45, 49., ante, pp. 55, 56.

Sale of goods
distrained.

40. [In what manner goods distrained under this act or 1 & 2 Will. 4. c. 22., shall be sold.]

Service of
summonses and
other notices.

41. For the purpose of serving summonses and other notices required by this act or 1 & 2 Will. 4. c. 22., the usual place of abode of any driver, conductor, or waterman, or of any person who, having been licensed as a driver, conductor, or waterman, has neglected to return his metal ticket at the expiration of his licence, shall be deemed to be the place specified in the licence; and it shall be lawful for any justice in all cases, upon complaint in respect of any matter within the meaning of this act or 1 & 2 Will. 4. c. 22., or of the orders and regulations made in pursuance thereof, to issue his summons to require attendance before the said justice, or any other justice, or to issue a warrant for apprehension, either in the first instance, or after the issuing and service of such summons and non-appearance of the party; and every summons or other notice required by this act shall be deemed to be duly served, provided the same, or a copy thereof, be either personally served or left at the usual place of abode of the party to whom it is directed, or if he be a party licensed under this act, or 1 & 2 Will. 4. c. 22., then at the place of abode specified in his licence.

See 1 & 2 Will. 4. c. 22. s. 68., ante, p. 81. See also 2 & 3 Vict. c. 71. s. 19-21., ante, pp. 44, 45.

Witnesses.

42. [Penalty on witnesses refusing to attend or to give evidence, £5.]

See 2 & 3 Vict. c. 71. s. 22. ante, p. 45.

Forms.

43. [Certain proceedings may be drawn up according to the forms in the schedule.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

44. [Where more proprietors than one, sufficient to name one only in proceedings.] Several proprietors.
45. [Power to mitigate penalties under this act or 1 & 2 Will. 4. c. 22.] Mitigation of penalties.
See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.
46. All penalties adjudged within the Metropolitan Police District under this act, or 1 & 2 Will. 4. c. 22., and not otherwise appropriated, shall be payable to Her Majesty, and all penalties so adjudged within the city of London or the liberties thereof, and not otherwise appropriated, shall be payable to the Chamberlain of the city of London, in aid of the expenses of the police of the said city.
But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56 ; see also 1 & 2 Will. 4. c. 22. s. 71., ante, p. 82.
47. [Actions, &c. for anything done under this act to be prosecuted within three calendar months ; venue ; one calendar month's notice in writing of action and of the cause thereof to be given ; tender of amends or payment into court ; costs.] Actions, &c.
See 5 & 6 Vict. c. 97., post, p. 413 ; and 15 & 16 Vict. c. 76. (Common Law Procedure) s. 70.

13 & 14 VICT. c. 7.

1. [Office of registrar of metropolitan public carriages abolished.] Registrar abolished.
2. [Duties and powers of abolished office transferred to Commissioners of Police of the Metropolis.] Duties transferred.
4. It shall be lawful for the said Commissioners of Police from time to time to appoint standings for hackney carriages at such places as they think convenient in any street, thoroughfare, or place of public resort within the Metropolitan Police District, and at their discretion, to alter the same, and from time to time to make regulations concerning the boundaries of the same, and the number of carriages to be allowed at any such standing, and the times at and during which they may stand and ply for hire at any such standing, and also from time to time to make such regulations as the said Commissioners deem proper for enforcing order at every such standing, and for removing any person who unnecessarily loiters or remains at or about any such standing ; and the said Commissioners shall cause all the orders and regulations made by them as aforesaid to be
- Standings for hackney carriages to be appointed.

advertised in the London Gazette, and a copy thereof, signed by one of the said Commissioners, to be hung up for public inspection in their office in the city of Westminster and at each of the police courts, and such copy shall be received in evidence in the said courts as if it were the original of which it purports to be a copy, and be taken to be a true copy, without further proof than the signature of the Commissioner.

This amends 6 & 7 Vict. c. 86. s. 29., ante, p. 106.

5. [Repeal of local acts in force before passing of 6 & 7 Vict. c. 86. as to hackney carriage standings.]

6. [Saving of Bloomsbury Square act, 46 Geo. 3. c. cxxxiv.]

7. [One Police Commissioner appointed by Secretary of State in this behalf may act alone under this act.]

See 19 & 20 Vict. c. 2. s. 7., ante, p. 2.

8. [This act to be construed with 6 & 7 Vict. c. 86.]

HACKNEY AND STAGE CARRIAGES AND ADVERTISING VEHICLES, METROPOLIS.

16 & 17 VICT. c. 33.

Certificate of fitness of carriage, &c. before grant of licence.

1. [Persons desirous of obtaining a licence to keep a metropolitan stage or hackney carriage within the limits of this act to make application to Commissioners of Police of the Metropolis, who, if carriage is found fit, shall grant a certificate in the form in Schedule (B.); no licence to be granted without such certificate.]

Inspection of carriages, &c.; notice of unfitness, &c.

2. [Commissioners of Police may cause metropolitan stage and hackney carriages, and the horse or horses used in drawing the same, within the limits of this act, to be inspected, and if not in fit condition, give notice in writing accordingly to the proprietor thereof, such notice to be personally served on proprietor, or delivered at his usual place of residence; and if after notice proprietor use or let to hire such carriage as a metropolitan stage or hackney carriage, or use or let to hire such horse or horses whilst in a condition unfit for public use, Commissioners may suspend licence, and recall stamp office plate during such suspension; notice in form in Schedule (C.) to be given to inland revenue board of such suspension.]

Penalty for using carriage not in fit condition.

3. Every proprietor or driver of a metropolitan stage or hackney carriage who uses or lets to hire within the limits of this act any carriage as a metropolitan stage or hackney carriage which has not been certified by the said Commis-

sioners of Police to be in a fit and proper condition for public use, or for which such certificate had been granted, after notice given to him as herein-before required by the said Commissioners that such carriage was no longer in a fit and proper condition, shall be liable to a penalty not exceeding £3 for each day that he so uses or lets to hire such carriage, or in default of payment may be imprisoned for not exceeding one month.

4. The proprietor or driver of any hackney carriage within the limits of this act shall be entitled to demand for the hire of such carriage the fares set forth in the Schedule (A.) to this act : Provided always, that when the proprietor or driver to be paid a fare calculated according to distance is required by the hirer to stop such carriage for 15 minutes or any longer time, the proprietor or driver may demand from the hirer a further sum (above the fare to which he is entitled, calculated according to distance,) of 6d. for every 15 minutes completed that he has been so stopped ; and no proprietor or driver shall demand over and above the said fare any sum, for back fare, for the return of such carriage from the place at which such carriage is discharged.

See 16 & 17 Vict. c. 127. ss. 13, 14, 15., post, pp. 120, 121.

5. The proprietor of every hackney carriage within the limits of this act shall put up, and at all times keep, distinctly painted or marked, in such manner and position as directed by the said Commissioners, on the inside and outside of such carriage, the amount of fare according to distance and time which may legally be demanded from the hirer of such carriage ; and the driver of every hackney carriage within the limits of this act shall have with him at all times when plying for hire a book or table, in such form as directed by the said Commissioners, of the fares for the hire of such carriage, which book or table the driver shall produce when required for the information of any person hiring or intending to hire such carriage.

6. In case of disputes as to the fare to be calculated according to distance any table or book signed by the said Commissioners shall, on proof of such signature, be deemed conclusive evidence of all the distances therein stated to have been measured by the authority of the said Commissioners ; and it shall be lawful for the said Commissioners to cause to be placed or erected at the several standings for hackney carriages or elsewhere within the metropolitan district, as they may deem convenient, tables of distances and fares, and such other information as may be useful to persons hiring such carriage.

As to rates and fares to be taken for hackney carriages.

No back fare to be taken or demanded.

Table of fares to be put up distinctly inside and outside of hackney carriages.

Driver to produce book of fares when required.

As to settlement of disputes as to distances.

As to distance or time drivers of hackney carriages may be required to drive.

Rate of speed when hired by time.

Driver to deliver a ticket to hirer of carriage.

Number of persons to be carried to be painted or marked on hackney carriage, &c.

As to quantity of luggage to be carried without extra charge.

Property left in hackney carriages to be deposited at the police station.

7. The driver of every hackney carriage which shall ply for hire at any place within the limits of this act shall (unless such driver have a reasonable excuse, to be allowed by the justice before whom the matter shall be brought in question,) drive such hackney carriage to any place to which he is required by the hirer to drive the same, not exceeding six miles from the place where the same has been hired, or for any time not exceeding one hour from the time when hired: Provided always, that when any hackney carriage has been hired by time, the driver may be required to drive at any rate not exceeding four miles within one hour, and if the driver be required to drive more than four miles within one hour, then in every such case the driver shall be entitled to demand, in addition to the fare regulated by time in Schedule (A.) to this act, for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in the same Schedule.

8. Every driver of a hackney carriage within the limits of this act shall, on each occasion when such carriage is hired, deliver to the hirer thereof a card, on which shall be printed, in legible letters and figures, the words "hackney carriage," and the number of the stamp office plate fixed on such hackney carriage, or such other words or figures as the said Commissioners may direct.

9. The proprietor of every hackney carriage within the limits of this act shall put up and at all times keep distinctly painted or marked on such carriage, in such manner and position as directed by the said Commissioners, the number of persons to be carried thereby as specified in the certificate granted by the said Commissioners for such carriage, and the driver of any such carriage shall, if required by the hirer carry in and by such carriage the number of persons painted or marked thereon, or any less number.

10. The driver of every hackney carriage within the limits of this act shall carry in or upon such carriage a reasonable quantity of luggage for every person hiring such carriage without additional charge, except as provided in Schedule (A.) to this act.*

11. The driver of every hackney carriage within the limits of this act wherein any property is left by any person shall within 24 hours carry such property, if not

* A hackney carriage proprietor is liable for the loss of luggage caused by want of due care on the part of the driver. See *Ross v. Hill*, 2 Common Bench Rep., 877.

sooner claimed by the owner, in the state in which he finds it, to the nearest police station, and there deposit it with the inspector or other officer on duty [under a penalty for default of not more than £10, or at the discretion of the magistrate imprisonment for not exceeding one month]; and the officer with whom such property is deposited shall forthwith enter in a book to be kept for that purpose the description of such property, the name and address of the driver, and the day on which it is brought; and the property so entered shall be returned to the person who proves, to the satisfaction of the Commissioners of Police, that the same belonged to him, such person previously paying all expenses incurred, with such reasonable sum to the driver who brought the same as the said Commissioners award:

Penalty on driver for default.

Provided always, that if such property be not claimed by and proved to belong to some person within one year after the same has been deposited, the said Commissioners shall cause such property to be sold or otherwise disposed of, and the proceeds to be paid to the receiver-general of inland revenue, to be carried to the public account, all expenses incurred about such property, with such reasonable sum to the driver who brought the same as the said Commissioners award, being first paid thereout.

Property not claimed to be disposed of.

And all property left by any passenger in any metropolitan stage carriage shall be given up to the conductor, or if there be no conductor, to the driver, upon pain of a penalty of £10, to be paid by any person refusing or neglecting to give up such property belonging to another person; and the conductor or driver to whom any such property is given up or who himself finds it in the carriage shall within 24 hours carry the property, if not sooner claimed by the owner thereof, in the state in which he finds it, to the nearest police station, and there deposit it with the inspector or other officer on duty [under a penalty for default of not more than £10, or at the discretion of the magistrate imprisonment for not exceeding one month]; and the property deposited shall be dealt with in the same manner as property left in hackney carriages and deposited by the drivers of such carriages.

Property left in stage carriages to be given up to conductor or driver.

12. It shall be lawful for the said Commissioners from time to time to appoint a sufficient number of fit men to enforce good order at the standings for hackney carriages, and at the places at which metropolitan stage carriages or hackney carriages call or ply for passengers, and at such places of public resort within the Metropolitan Police District as they may deem necessary; and the said Commissioners

Commissioners of Police to appoint persons to enforce good order at hackney carriage stands, &c.

may from time to time make such orders and regulations as they deem expedient, subject to the approval of one of Her Majesty's Principal Secretaries of State in writing relative to the duties to be performed by such persons and the places at which each shall act; provided that the said Commissioners shall not have authority to appoint any such person to act within or upon the premises belonging to any railway company unless with the consent of the directors of the company.

Payment of wages to such persons, &c.

13. [Power to said Commissioners, with consent of Treasury, to pay wages to such persons, and also to direct water rates for water at hackney carriage stands and places where metropolitan stage carriages call, to be paid.]

Lamps in metropolitan stage carriages.

14. [Lamps to be placed inside metropolitan stage carriages by proprietors, and kept lighted by conductor, or where no conductor the driver, between sunset and sunrise.]

Putting bills, &c. on metropolitan carriages.

15. [Printed bills, &c. not to be put on or in metropolitan stage or hackney carriages, so as to obstruct light or ventilation, or cause annoyance to passengers.]

Advertising vehicles, &c. prohibited.

16. It shall not be lawful for any person to carry about on any carriage or on horseback or on foot, in any thoroughfare or public place within the limits of this act, to the obstruction or annoyance of the inhabitants or passengers, any picture, placard, notice, or advertisement, whether written, printed, or painted upon or posted or attached to any part of such carriage, or on any board, or otherwise.

Drivers and conductors of metropolitan stage carriages, and drivers of hackney carriages, liable to penalties for offences herein named.

17. The driver or conductor of any metropolitan stage carriage,* or the driver of any hackney carriage, who commits any of the following offences within the limits of this act, shall be liable to a penalty not exceeding 40s. for each offence, or in default of payment to imprisonment for not exceeding one calendar month :

1. Every driver of a hackney carriage who demands or takes more than the proper fare as set forth in Schedule (A.) to this act, or refuses to admit and carry in his carriage the number of persons painted or marked on such carriage or specified in the certificate granted by the said Commissioners in respect of such carriage, or refuses to carry by his carriage a reasonable quantity of luggage for any person hiring or intending to hire such carriage :

* It will be observed that the only offences described in this section are offences committed by the driver of a hackney carriage.

2. Every driver of a hackney carriage who refuses to drive such carriage to any place within the limits of this act, not exceeding six miles, to which he is required to drive any person hiring or intending to hire such carriage, or refuses to drive such carriage for any time not exceeding one hour, if so required by any person hiring or intending to hire such carriage, or who does not drive the same at a reasonable and proper speed, not less than six miles an hour, except in cases of unavoidable delay, or when required by the hirer thereof to drive at any slower pace :

8. Every driver of a hackney carriage who plies for hire with any carriage or horse which is at the time unfit for public use, or who refuses or neglects to deliver to the hirer of his carriage a ticket with the number of the stamp office plate on such carriage printed thereon.

As to offences in paragraphs 1, 2; see also 1 & 2 Will. 4. c. 22. ss. 35, 36. 42., ante, pp. 74-76.

18. It shall be lawful for any one of the police magistrates at any of the metropolitan police courts to hear and determine all offences against this act, and also all disputes or causes of complaint that may arise out of the same ; or if the offence, dispute, or cause of complaint be committed or occur in any place not within the limits of a police court district, the same may be heard and determined by two justices for the county ; or if the offence, dispute, or cause of complaint be committed or occur within the city of London, the same shall be heard and determined by one justice for the said city, or by a metropolitan police magistrate sitting at the police court in Bow Street ; and in case of any dispute between the hirer and driver of any hackney carriage, the hirer may require the driver forthwith to drive to the nearest metropolitan police court or justice room, where complaint may be made to the magistrate then sitting, who shall hear and determine the same, without requiring any summons to be issued for that purpose ; and if such dispute arise at a time when the police court or justice room is not open, the hirer may require the driver to drive to the nearest police station or justice room, where the complaint shall be entered, and notice given to both parties that the matter in dispute shall be heard by the magistrate at his next sitting.

Power to police magistrates or justices to hear and determine offences, &c.

In case of dispute the hirer may require the driver to drive to a police court, or to a police station.

19. For every offence against this act for which no special penalty is herein-before appointed, the offender shall be liable to a penalty not exceeding 40s., or in default of

Penalty for offences against this act for which no

118 HACKNEY AND STAGE CARRIAGES AND [16 & 17 Vict. c. 33.

penalty is appointed.

payment be imprisoned for not exceeding one month in any gaol or house of correction within the jurisdiction of the magistrate before whom the conviction takes place.

Meaning of certain words used in this act.

20. All things herein authorized to be done by the said Commissioners shall be done by such one of the said Commissioners as one of Her Majesty's Principal Secretaries of State shall from time to time appoint; and the words "the limits of this act" shall include every part of the Metropolitan Police District and city of London.

See 19 & 20 Vict. c. 2. s. 7., ante, p. 2.

21. [This act to be construed with 6 & 7 Vict. c. 86. and 13 & 14 Vict. c. 7.]

SCHEDULES referred to in the foregoing Act.

RATES and Fares to be paid for any Hackney Carriage hired at any place within the limits of this act.

SCHEDULE (A.)

Description of Carriage.	Fare by Distance.		Fare by time.	
	For any distance within and not exceeding one mile.	For any distance exceeding one mile.	For any time within and not exceeding one hour.	
With four or two wheels, drawn by one horse.	6d.	After the rate of sixpence for every mile, and for any part of a mile over and above any number of miles completed.	2s.	And for every hackney carriage drawn by two horses, one third above the rates and fares herein - before mentioned.

The above fares to be paid according to distance or time, at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to distance.

Provided that no driver shall be compellable to hire his carriage for a fare to be paid according to time at any time after 8 o'clock in the evening and before 6 o'clock in the morning.

When more than two persons shall be carried inside any hackney carriage, one sum of 6d. is to be paid for the whole hiring in addition to the above fares. Two children under 10 years of age to be counted as one adult person.

When more than two persons shall be carried inside any hackney carriage with more luggage than can be carried inside the carriage, a further sum of twopence for every package carried outside the said carriage is to be paid by the hirer in addition to the above fares.

SCHEDULE (B.)

Certificate.

I, _____, do hereby certify, that on the application of _____, now living at _____, I have caused the carriage known by the following marks or description [*here state marks or description by which the carriage may be identified*] to be inspected, which the said _____ desires to use and let to hire as a [metropolitan stage carriage, or as a hackney carriage]; and I certify that the said carriage is in a fit and proper condition for public use, and that persons are to be carried thereby [*if the carriage be a metropolitan stage carriage the number of passengers to be carried inside and outside thereof respectively is to be specified, exclusive of the driver and conductor*].

(Signed)

Commissioner of the Police of the Metropolis.

SCHEDULE (C.)

Certificate.

I, _____, do hereby certify, that I have caused the carriage now used and let to hire as a [*state whether a metropolitan stage or hackney carriage*], and known by the following marks or description [*here state marks or description by which the carriage may be identified*], to be inspected, and find the said carriage not to be in a fit and proper condition for public use; and I do hereby suspend the licence granted to _____ to keep and use the said carriage as a [*state whether a metropolitan stage or hackney carriage*] for the period of _____ from this date.

(Signed)

Commissioner of the Police of the Metropolis.

STAGE CARRIAGES (G. B.) AND HACKNEY CARRIAGES,
METROPOLIS.

Duties on Licences to let Horses for Hire.

16 & 17 VICT. c. 88.

1. [Duties on horses let for hire and on licences to let horses, and all provisions for levying, &c. said duties, repealed.] Duties on horses let for hire.

2. [Grant of new duties on licences to let horses for hire.]

3. [Duties granted to be duties of excise under the care of the commissioners of inland revenue.]

4. [Persons who let horses for hire to take out licences under this act.]

5. Provided always, that no person shall be required to take out any such licence as aforesaid in respect of any horse used in drawing any public stage carriage duly licensed by the commissioners of inland revenue or their proper officer, or in respect of any horse used in drawing any hackney carriage duly licensed by the like authority, such hackney carriage being regularly and constantly used for the purpose of standing or plying for hire in the public streets or roads within the limits of 16 & 17 Vict. c. 33., provided such hackney carriage shall be hired within and shall not be used to go beyond such limits. Not to extend to horses used in licensed stage or hackney carriages.

The remaining sections do not require notice.

HACKNEY AND STAGE CARRIAGES, METROPOLIS.

16 & 17 VICT. c. 127.

Duties.

1. [Repeal of duties in respect of hackney carriages in the metropolis granted by 1 & 2 Will. 4. c. 22. s. 3.]

2. [Grant of new duties on hackney carriages in lieu of duties repealed.]

4. [Duties granted to be duties of excise under the care of the commissioners of inland revenue.]

5, 6. [Temporary provisions as to existing licences.]

Commence-
ment and ter-
mination of
licences.

7. [Every licence to expire on the first Sunday in January in the year next following that in which it is granted, and be renewed from year to year.]*

9. [Notice of intention to renew licence to be given to the officer authorized to grant such licence.]

Delivery up of
plate on cesser
of licence.

10. [Numbered plate to be delivered up on expiration or discontinuance of licences, or in default duty to continue payable.]

See 1 & 2 Will. 4. c. 22. s. 17., ante, p. 68, and 6 & 7 Vict. c. 86. s. 26., ante, p. 104.

Week day
licences.

11. [Numbered plates on hackney carriages not licensed to be used on Sundays to be distinguished from those on carriages licensed to be used on every day of the week; and like penalty for using carriage on Sunday licensed only for week days as for using hackney carriage without a licence.]

Penalty for
using carriage
on Sunday.

12. [Commissioners of inland revenue may direct where licences for hackney carriages and metropolitan stage carriages are to be granted and the duties paid.]

Increased fare
beyond four
mile radius.

13. [1s. a mile to be paid for every mile beyond the circumference of a circle four miles from Charing Cross if carriage discharged beyond such circumference.]

Additional
6d. for each
person above
two.

14. [Where more than two persons are conveyed in a hackney carriage drawn by one horse, 6d. in addition to the fare to be paid for each person above two for the whole hiring, and two children under 10 to be considered as one person.]

* Licence may be transferred on death to the widow or child, or to the husband of a woman licensed before marriage. 23 & 24 Vict. c. 113. s. 38.

15. [When hackney carriage hired by time, 6d. to be paid for every 15 minutes, or portion thereof, over the hour.] Fare for fraction of an hour.

16. [Proprietors of hackney carriages withdrawing carriages from hire beyond a certain time liable to a penalty.] Penalty for withdrawing carriage.

17. The limits of this act shall be deemed to be and to include every part of the Metropolitan Police District and the city of London; and all provisions of any former act in force referring to hackney carriages licensed under 1 & 2 Will. 4. c. 22., or to hackney carriages kept, used, employed, or let to hire within the distance of five miles from the general post office in the city of London, or to any act, matter, or thing committed or done in relation to such hackney carriages within the said distance, shall be deemed to refer and apply to hackney carriages licensed under this act, or to hackney carriages kept, used, employed, or let to hire within the limits of this act, and to any act, matter, or thing committed or done in relation to hackney carriages within the said limits. "The limits of this act" defined.

18. [None but officers of inland revenue or of Metropolitan Police to prosecute before justices for penalties for keeping, using, or letting to hire any hackney carriage within the limits of this act without a licence, or without having the proper numbered plate properly placed and fixed.]

VAGRANTS.

5 GEO. 4. c. 83.

1. [All provisions heretofore made relative to idle and disorderly persons, rogues and vagabonds, incorrigible rogues or other vagrants, in England, repealed, except as herein after excepted.] Repeal of former enactments.

2. [Provisions of 32 Geo. 3. c. 45. giving power of passing convicts on discharge from prison, acquittal, &c. repealed.] Passing convicts.

3. Every person being able wholly or in part to maintain himself or herself, or his or her family, by work or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she, or any of his or her Persons committing certain offences to be deemed idle and disorderly persons,—how to be punished.

family whom he or she may be legally bound to maintain,* shall have become chargeable to any parish, township, or place ;

Extended to mothers of bastards by 7 & 8 Vict. c. 101. s. 6., post, p. 131.

every person returning to and becoming chargeable in any parish, township, or place from whence he or she shall have been legally removed by order of two justices unless he or she shall produce a certificate of the churchwardens and overseers of the poor of some other parish, township, or place, thereby acknowledging him or her to be settled in such other parish, township, or place ;

Extended to persons returning and becoming chargeable on asylums for houseless poor by 7 & 8 Vict. c. 101. s. 55., post, p. 131.

every petty chapman or pedlar wandering abroad, and trading without being duly licensed, or otherwise authorized by law ;

every common prostitute wandering in the public streets or public highways, or in any place of public resort, and behaving in a riotous or indecent manner ;

and every person wandering abroad, or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms, or causing or procuring or encouraging any child or children so to do ;

See also 2 & 3 Vict. c. 47. s. 54., par. 11., ante, p. 28.

shall be deemed an idle and disorderly person within the true intent and meaning of this act ; and it shall be lawful for any justice to commit such offender (being thereof convicted before him by his own view, or by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses,) to the house of correction, there to be kept to hard labour for not exceeding one calendar month.

See also 24 & 25 Vict. c. 113. s. 9., &c., post, p. 373.

Persons committing certain offences to be deemed rogues and vagabonds, —how to be punished.

4. Every person committing any of the offences hereinbefore mentioned, after having been convicted as an idle and disorderly person ;

every person pretending or professing to tell fortunes, or using any subtle craft, means, or device, by palmistry, or otherwise, to deceive and impose on any of His Majesty's subjects ;

every person wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or

* A wife who has left her husband, and has committed adultery, is not within this clause. *Rex. v. Flintan*, 1 Barnewall and Adolphus' Rep. 227.

in the open air, or under a tent, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself or herself;

every person wilfully exposing to view, in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition.

See 1 & 2 Vict. c. 38. s. 2., post, p. 131.

every person wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or public highway, or in the view thereof, or in any place of public resort, with intent to insult any female;

every person wandering abroad, and endeavouring by the exposure of wounds or deformities to obtain or gather alms;

every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;

every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they or any of them shall become chargeable to any parish, township, or place; *

every person playing or betting in any street, road, highway, or other open and public place, at or with any table or instrument of gaming, at any game or pretended game of chance;

every person having in his or her custody or possession any picklock key, crow, jack, bit, or other implement, with intent feloniously to break into any dwelling house, warehouse, coach-house, stable, or outbuilding, or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument, with intent to commit any felonious act;

See 24 & 25 Vict. c. 96. ss. 58, 59., post, p. 433.

every person being found in or upon any dwelling house, warehouse, coach-house, stable, or outhouse, or in any inclosed yard, garden, or area, for any unlawful purpose; †

every suspected person or reputed thief, frequenting any river, canal, or navigable stream, dock, or basin, or any

* A mother of a bastard is not liable under this provision for running away and leaving her child chargeable. *Reg. v. Maude*, 6 Jurist, 646. But see 7 & 8 Vict. c. 101. s. 6., *post*, p. 131.

The leaving of a wife and family is not an offence under this provision until chargeability has actually occurred. *Heath v. Heape*, 1 Hurlstone and Norman's Rep., 478.

† An unlawful purpose within the meaning of this enactment is a purpose to do something forbidden by the statute or common law; not merely an immoral purpose. *Hayes v. Stephenson*, 9 Weekly Rep., 53.

quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony ;*

and every person apprehended as an idle and disorderly person, and violently resisting any constable or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended,

See also 2 & 3 Vict. c. 47. s. 18., and references thereon, ante, p. 14.

shall be deemed a rogue and vagabond within the true intent and meaning of this act ; and it shall be lawful for any justice to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses,) to the house of correction, there to be kept to hard labour for not exceeding three calendar months ; and every such picklock key, crow, jack, bit, and other implement, and every such gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, and every such instrument as aforesaid, shall, by the conviction of the offender, become forfeited to the King's Majesty.

See also 2 & 3 Vict. c. 47. s. 54., and references thereon, ante, p. 26. See also 7 & 8 Vict. c. 101. s. 53., post, p. 146.

Who shall be deemed incorrigible rogues; how to be punished.

5. Every person breaking or escaping out of any place of legal confinement before the expiration of the term for which he or she shall have been committed or ordered to be confined by virtue of this act ;

every person committing any offence against this act which shall subject him or her to be dealt with as a rogue and vagabond, such person having been at some former time adjudged so to be, and duly convicted thereof ;

and every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace officer so apprehending him or her, and being subsequently con-

* In *Reg. v. Brown*, 17 Queen's Bench Rep. 833., it was holden by Lord Campbell, C. J., Coleridge and Wightman, J.s., Patterson, J. dissentiente, that "street, highway, or place adjacent" means any street or highway or place adjacent to a street or highway. But in the later case of *In re Jones*, 7 Exchequer Rep., 586., the court held that the above words meant a street, highway, or place adjacent to a place of public resort.

Private premises on which a sale by public auction is taking place are on that occasion a place of public resort, within this clause. *Sewell v. Taylor*, 7 Common Bench Rep., N.S., 160.

victed of the offence for which he or she shall have been so apprehended,

See also 2 & 3 Vict. c. 47. s. 18., and references thereon, ante, p. 14.

shall be deemed an incorrigible rogue within the true intent and meaning of this act; and it shall be lawful for any justice to commit such offender, (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses,) to the house of correction, there to remain until the next general or quarter sessions; and every such offender so committed to the house of correction shall be there kept to hard labour during the period of his or her imprisonment.

6. It shall be lawful for any person whatsoever to apprehend any person who shall be found offending against this act, and forthwith to take and convey him or her before some justice to be dealt with in such manner as is herein-before directed, or to deliver him or her to any constable or other peace officer of the place where he or she shall have been apprehended, to be so taken and conveyed as aforesaid;* and in case any constable or other peace officer refuse or wilfully neglect to take such offender into his custody, and to take and convey him or her before some justice, or do not use his best endeavours to apprehend and to convey before some justice any person that he finds offending against this act, it shall be deemed a neglect of duty in such constable or other peace officer, and he shall on conviction be punished in such manner as is herein-after directed.

Any person may apprehend offenders.

Penalty on constables, &c. neglecting their duty.

7. It shall be lawful for any justice upon oath being made before him that any person hath committed or is suspected to have committed any offence against this act, to issue his warrant to apprehend and bring before him or some other justice the person so charged, to be dealt with as is directed by this act.

Justices to issue of warrants for apprehension of offenders.

8. It shall be lawful for any constable or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to take any horse, mule, ass, cart, car, caravan,

Vagrants to be searched, and trunks, bundles, &c. to be inspected.

* A man may be arrested without warrant, as being found in an outhouse [see s. 4.] with intent to commit a felony, if he be seen in the outhouse, but get out of it, and is taken on fresh pursuit; and it makes no difference that he was not seen getting out of the outhouse, and was found concealing himself upon other premises near, to avoid being apprehended. *Rex v. Howarth, Moody's Crown Cases, 207.*

Effects found upon vagrants to be sold, and applied towards the expenses of maintaining such offenders.

or other vehicle or goods in the possession or use of such person, and to take and convey the same as well as such person before some justice, and for every justice by whom any person is adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to order that such offender be searched, and that his or her trunks, boxes, bundles, parcels, or packages be inspected in the presence of the said justice, and of him or her, and also that any cart, car, caravan, or other vehicle which has been found in his or her possession or use be searched in his or her presence; and it shall be lawful for the said justice to order that any money then found with or upon such offender be paid and applied for and towards the expense of apprehending, conveying to the house of correction, and maintaining such offender during the time for which he or she has been committed; and if upon such search money sufficient for the purposes aforesaid be not found, it shall be lawful for such justice to order that a part, or if necessary, the whole of such other effects then found, be sold, and that the produce of such sale be paid and applied as aforesaid, and also that the overplus of such money or effects, after deducting the charges of such sale, be returned to the said offender.

Justices may bind persons by recognizance to prosecute vagrants at sessions.

Power of sessions to order payment of expenses to prosecutors and witnesses.

9. When any justice as aforesaid commits any such incorrigible rogue to the house of correction, there to remain till the next general or quarter sessions, or when any such idle and disorderly person, rogue, and vagabond, or incorrigible rogue, gives notice of his or her intention to appeal against the conviction of him or her, and enters into recognizance as herein-after directed to prosecute such appeal, such justice shall require the person by whom such offender was apprehended, and the person or persons whose evidence appears to him material to prove the offence and to support such conviction, to become bound in recognizance to His Majesty, to appear at the said sessions, to give evidence against such offender touching such offence; and the justices at their said sessions are hereby authorized, at the request of any person who has become bound in any such recognizance, to order the treasurer of the county, riding, division, or place in which the offence has been committed to pay to such prosecutor, and the witness or witnesses on his or her behalf, such sums as to the court shall seem reasonable and sufficient to reimburse them respectively for their expenses, trouble, and loss of time in and about such prosecution; which order the clerk of the peace is to make out and deliver to such prosecutor, or such

witness or witnesses, upon being paid for the same 2s.; and the said treasurer is required, upon sight of such order, forthwith to pay to such prosecutor, or other person or persons authorized to receive the same, such money as aforesaid, and shall be allowed the same in his account; and in case any such person or persons as aforesaid refuse to enter into such recognizance, it shall be lawful for such justice to commit such person or persons so refusing to the common gaol, there to remain until he, she, or they enter into such recognizance, or be otherwise discharged by due course of law.

10. When an incorrigible rogue has been committed to the house of correction, there to remain until the next general or quarter sessions, it shall be lawful for the justices there assembled to examine into the case, and to order, if they think fit, that such offender be further imprisoned in the house of correction, and kept to hard labour for not exceeding one year from the time of making such order, and to order further, if they think fit, that such offender (not being a female) be punished by whipping, at such time during his imprisonment, and at such place within their jurisdiction, as according to the nature of the offence they in their discretion deem expedient.

Power of sessions to detain and keep to hard labour, and punish by whipping, incorrigible rogues.

11. In case any constable or other peace officer neglect his duty in anything required of him by this act, or in case any person disturb or hinder any constable or other peace officer in the execution of this act, or be aiding, abetting, or assisting therein, and be thereof convicted upon the oath of one or more credible witness or witnesses before one or more justice or justices where such offence is committed, every such offender shall for every such offence forfeit any sum not exceeding £5; [if fine not forthwith paid, the same to be levied by distress and sale; and if no sufficient distress, offender to be committed to the house of correction for not exceeding three calendar months, or until such fine be paid; the fine to go to the treasurer of the county, &c. as part of the stock of the county, &c.]

Penalty on constables or other peace officers neglecting their duties, &c.

See also 2 & 3 Vict. c. 47. s. 14., ante, p. 13., and c. 71. ss. 45, 47., ante, pp. 55, 56.

12. In case any constable or other peace officer be convicted before any justice or justices for any neglect of any duty required of him by this act, or of any disobedience of any lawful warrant or order of any justice or justices issued under this act, and in case any justices impose any fine, or direct any penalty to be paid by such officer,

On conviction of officers, &c., justices to make order for payment of expenses of prosecution.

under the powers given to justices by 33 Geo. 3. c. 55.,
 “ An act to authorize justices of the peace to impose fines
 “ upon constables, overseers, and other peace or parish
 “ officers, for neglect of duty, and on masters of apprentices
 “ for illusage of such their apprentices, and also to make
 “ provision for the execution of warrants of distress granted
 “ by magistrates,” or under any other powers enabling such
 justices in that behalf, then and in every such case it shall
 be lawful for such justice or justices, upon conviction
 of any such offender, to reimburse and allow to the person
 or persons on whose complaint or information such offender
 has been convicted all necessary costs and expenses which
 such person or persons may thereby have incurred, or
 by any appeal made in consequence thereof, by making an
 order upon the treasurer of the county, riding, division, or
 place, to pay to such person or persons the amount of such
 costs and expenses, on producing the said order, and giving
 a receipt for the same, and the same shall be allowed the
 said treasurer in his account.

Lodging
houses, &c.
suspected to
conceal
vagrants may
be searched,
and suspected
persons
brought before
a justice.

13. It shall be lawful for any justice, upon information
 on oath before him made, that any person herein-before
 described to be an idle and disorderly person, or a rogue
 and vagabond, or an incorrigible rogue, is or is reason-
 ably suspected to be harboured or concealed in any house
 kept or purporting to be kept for the reception, lodging,
 or entertainment of travellers, by warrant under his hand
 and seal to authorize any constable or other person or per-
 sons to enter at any time into such house, and to appre-
 hend and bring before him or any other justice every
 such idle and disorderly person, rogue, and vagabond, and
 incorrigible rogue, found therein, to be dealt with in the
 manner herein-before directed.

Persons
aggrieved may
appeal to the
next sessions.

14. Any person aggrieved by any act or determination
 of any justice or justices out of sessions, in the execu-
 tion of this act, may appeal to the next general or
 quarter sessions, giving to such justice or justices notice
 in writing of appeal, and of the ground thereof, within
 seven days after such act or determination, and before
 the next general or quarter sessions, and entering within
 such seven days into a recognizance, with sufficient surety,
 to appear and prosecute such appeal; and upon such
 notice being given, and recognizance being entered into,
 such justice is hereby empowered to discharge such per-
 son out of custody; and the court at such sessions shall
 hear and determine the appeal, and make order therein,
 and in case of dismissal of the appeal, or affirmance of

the conviction, issue the necessary process for the apprehension and punishment of the offender, according to the conviction.

See 1 & 2 Vict. c. 38. s. 1., post, p. 130. See also 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

15. [Act not to prevent visiting justices of gaols, &c. granting certificates, &c. for enabling persons discharged from prison to receive alms in their route]; if any person to whom any such certificate or instrument is delivered act in any manner contrary to the directions or provisions of such certificate or instrument, or loiter upon his or her route, or deviate therefrom, every such person shall be and be deemed to be a rogue and vagabond within the provisions and directions of this act, and shall be punished accordingly.

Saving for certificates to discharged prisoners for enabling them to receive alms in their route; person deviating from route to be deemed a rogue, &c.

16. No justice, mayor, or other magistrate shall grant to any person, other than a person entitled thereto under and by virtue of 43 Geo. 3. c. 61. "An act for the relief of soldiers, sailors, and marines, and of the wives of soldiers, in the cases therein mentioned, so far as relates to England," any certificate or other instrument enabling such person to ask alms or relief in their route to any place, or for any other purpose whatever; and every person asking alms or relief under and by virtue of any certificate or other instrument hereby prohibited is liable to be declared to be an idle and disorderly person, in like manner as if he or she had possessed no such certificate or other instrument as aforesaid.

Justices not to grant certificates except to those entitled under 43 Geo. 3. c. 61.

Persons asking alms under prohibited certificate to be deemed idle, &c.

17. [No proceeding to be had before any justice or justices under this act to be quashed for want of form; form of conviction; conviction to be transmitted to the sessions, and a copy thereof certified by clerk of the peace, to be evidence.]

Informality, &c.

See 2 & 3 Vict. c. 71. ss. 48, 49., ante, p. 56.

18. [Justices, constables, &c. to have treble costs if judgment in actions against them be in their favour, unless judge certify that there was reasonable cause of action.]

Actions, &c.

See 5 & 6 Vict. c. 97. s. 2., post, p. 413., and 11 & 12 Vict. c. 44.

19. [Actions to be brought within three calendar months; defendant may plead general issue.]

20. [Every person under this act convicted as an idle and disorderly person, or as a rogue and vagabond, to be

Persons convicted under this act to be

chargeable to the parish in which they reside.

deemed actually chargeable to the parish in which such person resides, and to be liable to be removed to the parish of his or her last legal settlement, by the order of two justices.]

This act is repealed as to removal to Scotland or Ireland or the Isle of Jersey or Guernsey of persons born there, and being chargeable to parishes in England, by 11 Geo. 4. & 1 Will. 4. c. 5. and 3 & 4 Will. 4. c. 40.; and see 8 & 9 Vict. c. 117.

Persons committing offences under former acts to be punished under this act.

21. Wherever by any act now in force it is directed that any person shall be punished as an idle and disorderly person, or as a rogue and vagabond, or as an incorrigible rogue, for any offence specified in such act, and not herein-before provided for, every such person shall be punished under the provisions, powers, and directions of this act.

Saving.

22. [Nothing herein to apply to Scotland or Ireland, or alter any law for removal of poor persons born in Scotland, Ireland, or the Isles of Man, Jersey, and Guernsey, and becoming chargeable in England, such persons not having committed acts of vagrancy as herein-before described, or alter any law relating to lunatic vagrants.]

See note on s. 20.

1 & 2 VICT. c. 38.

Persons convicted, being discharged out of custody on having appealed against conviction, and not appearing to prosecute such appeal, may be re-committed.

1. When any person aggrieved by any act or determination of any justice or justices out of sessions in or concerning the execution of the said act [5 Geo. 4. c. 83.] has appealed against such act or determination according to the said act, and has thereupon been discharged out of custody, and such person does not personally appear and prosecute such appeal at the sessions according to the recognizance entered into on such appeal, it shall be lawful for the justices at such sessions, or for any justice for the county or place in which such person has been convicted, on proof of the conviction, and on proof by certificate under the hand of the clerk of the peace for the said county or place or of the person acting as his deputy, that the person so convicted did not personally appear to prosecute such appeal, to issue a warrant for the apprehension and committal of such person for such period of time as, together with the days during which such person so convicted has been imprisoned (if any) previous to being discharged by reason of appeal, shall complete the full term for which

such person was adjudged to be imprisoned at the time of his or her said conviction.

2. [Recites that doubts have arisen whether the exposing to public view in the windows of shops in streets, &c. of any obscene print, &c., is an offence within the meaning of 5 Geo. 4. c. 83. *See s. 4. of that act.*]

Exposing obscene prints, in shop windows liable, on conviction, to punishment.

Every person who wilfully exposes or causes to be exposed to public view in the window or other part of any shop or other building situate in any street, road, highway, or public place any obscene print, picture, or other indecent exhibition shall be deemed to have wilfully exposed such obscene print, picture, or other indecent exhibition to public view within the intent and meaning of the said act, and shall accordingly be liable to be proceeded against, and on conviction to be punished under the provisions of the said act,

See also 20 & 21 Vict. c. 83., post, p. 132.

7 & 8 Vict. c. 101.

6. Every woman neglecting to maintain her bastard child, being able wholly or in part so to do, whereby such child becomes chargeable to any parish or union, shall be punishable as an idle and disorderly person under the provisions of 5 Geo. 4. c. 83.; and every woman so neglecting to maintain her bastard child after having been once before convicted of such offence, and every woman deserting her bastard child whereby such bastard child becomes chargeable to any parish or union, shall be punishable as a rogue and vagabond under the provisions of the said act.

Mother punishable for neglect or desertion of her bastard child.

55. If any poor person return and become chargeable in the asylum of any district after removal from any parish in such district he* shall be deemed to have returned and become chargeable without any certificate to the parish whence he* has been legally removed by order of two justices within the meaning of 5 Geo. 4. c. 83. *See s. 3. of that act.*

Penalty for returning after removal.

* "or she," see s. 74. of this act and 5 & 6 Vict. c. 57. s. 18.

SALE OF OBSCENE BOOKS, &c. PREVENTION.

20 & 21 VICT. c. 83.

Justices, &c.
may authorize
search of sus-
pected pre-
mises.

1. It shall be lawful for any metropolitan police magistrate or other stipendiary magistrate, or any two justices, upon complaint made before him or them upon oath that the complainant has reason to believe, and does believe, that any obscene books, papers, writings, prints, pictures, drawings, or other representations are kept in any house, shop, room, or other place within the limits of the jurisdiction of any such magistrate or justices, for the purpose of sale or distribution, exhibition for purposes of gain, lending upon hire, or being otherwise published for purposes of gain, which complainant shall also state upon oath that one or more articles of the like character have been sold, distributed, exhibited, lent, or otherwise published as aforesaid, at or in connexion with such place, so as to satisfy such magistrate or justices that the belief of the said complainant is well founded, and upon such magistrate or justices being also satisfied that any of such articles so kept for any of the purposes aforesaid are of such a character and description that the publication of them would be a misdemeanor, and proper to be prosecuted as such, to give authority by special warrant to any constable or police officer into such house, shop, room, or other place, with such assistance as may be necessary, to enter in the daytime, and, if necessary, to use force, by breaking open doors or otherwise, and to search for and seize all such books, papers, writings, prints, pictures, drawings, or other representations as aforesaid found in such house, shop, room, or other place, and to carry all the articles so seized before the magistrate or justices issuing the said warrant, or some other magistrate or justices exercising the same jurisdiction; and such magistrate or justices shall thereupon issue a summons calling upon the occupier of the house or other place which may have been so entered by virtue of the said warrant to appear within seven days before such police* stipendiary magistrate or any two justices in petty sessions for the district to show cause why the articles so seized should not be destroyed; and if such occupier or some other person claiming to be the owner of the said articles do not appear within the time aforesaid, or appear, and such magistrate or justices be satisfied that such articles or any of them are of the character stated in the warrant, and that such or any of them have been kept for any of the purposes aforesaid, it shall be lawful for the said magistrate or justices, and he or they are hereby required, to order the

* Sic.

articles so seized, except such of them as he or they may consider necessary to be preserved as evidence in some further proceeding, to be destroyed at the expiration of the time herein-after allowed for lodging an appeal, unless notice of appeal as herein-after mentioned be given, and such articles shall be in the meantime impounded; and if such magistrate or justices shall be satisfied that the articles seized are not of the character stated in the warrant, or have not been kept for any of the purposes aforesaid, he or they shall forthwith direct them to be restored to the occupier of the house or other place in which they were seized.

2. [Tender of amends; payment into court.]

Amends.

See 15 & 16 Vict. c. 76. (*Common Law Procedure Act*) & 70.

3. [One calendar month's notice in writing of action to be given; actions, &c. to be brought within three calendar months.]

Actions.

4. [Appeal to quarter sessions against any act or determination of magistrate or justices.]

Appeal.

SLAUGHTERING OF CATTLE AND CRUELTY TO ANIMALS.

Regulation of Places for slaughtering Cattle (not killed for Butchers Meat).

26 GEO. 3. c. 71.

1. [No person to keep any house for slaughtering cattle,* not killed for butchers meat, without a licence from the quarter sessions, granted upon a certificate of fitness from minister and churchwardens or overseers, or from minister and two householders: Power to widow to carry on business until next quarter sessions.]

Persons keeping houses for slaughtering cattle to be licensed.

See 7 & 8 Vict. c. 87. ss. 1, 2., *post*, p. 136.

2. [How licences to be signed and entered, &c. Licencee to affix to house the words "Licensed for slaughtering horses, pursuant to an act passed in the 26th year of His Majesty King George the Third."]

See 12 & 13 Vict. c. 92. s. 7., *post*, p. 139.

* The words are any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, and so throughout the act where "cattle" occurs, except the last place in s. 14.

Notice to be
given before
slaughtering.

Time of
slaughtering.

3. [Licencee to give six hours notice previous to slaughtering any cattle, or flaying cattle brought dead, to the inspector, to the intent he may attend and take an exact account and description of such cattle. No cattle to be slaughtered or flayed but between 8 a.m. and 4 p.m. from October to March inclusive, and 6 a.m. and 8 p.m. during the remaining months.]

See 12 & 13 Vict. c. 92. ss. 8, 9., post, p. 139.

Account to be
kept by
licencee.

4. [Licencee, at the time any such cattle is brought for slaughtering or flaying, to enter in a book the name, &c. of the owner and of the person bringing such cattle, and the reasons why the same is brought; such book to be open to inspector and to be produced before any justice, when required by warrant or order, and before quarter sessions.]

See 12 & 13 Vict. c. 92. s. 10., post, p. 140.

Appointment
and duties
of inspectors.

5. [Vestry to appoint annually, or oftener, an inspector or inspectors to inspect slaughtering-houses. Inspector in person, or by his servant, to attend on notice of intention to kill or flay, and enter in a book such account and description as aforesaid, for which entry licencee to pay 6d. Any person may search such book on paying 6d. Inspector to affix over door "Inspector of houses and places for slaughtering horses;" if inspector on examination of any cattle intended to be killed have reason to believe, or be of opinion, that same is sound and serviceable, or has been unlawfully come by, he is to prohibit the slaughtering of same for not exceeding eight days, and in the meantime to advertise in some public newspaper, twice or oftener, unless owner sooner inform inspector that he caused such cattle to be delivered for the purpose of being killed; licencee to pay for advertisements, and in event of nonpayment, double the amount may be levied on him by distress and sale.]

See 7 & 8 Vict. c. 87. ss. 5, 6., post, p. 137.

Power to enter
slaughtering
houses.

6. [Power to inspector to visit slaughtering-houses at any time, by day or night, but if in the night in the presence of a constable, and to examine cattle and take account thereof.]

See 7 & 8 Vict. c. 87. ss. 4, 5, 6., post, pp. 136, 137.

Persons bring-
ing cattle to
licencee, and
refusing, &c.
to give account
of themselves,

7. [If any person offer to sale, or bring any cattle to any slaughtering-house to be killed or flayed, and be unable or refuse to give a satisfactory account of himself, or of the means by which same came into his possession, or if there be reason to suspect same was unlawfully obtained, any person keeping

such slaughtering-house to whom such cattle is brought or offered for sale, his servant or agent, and any inspector or his servant, may detain such person and cattle, and deliver such person into the custody of a constable, who is required immediately to convey such person before a justice, and if such justice have reason to suspect such cattle to be unlawfully obtained, he may remand such person for six days, to be further examined; and if upon either occasion such justice be satisfied or have reason to believe such cattle to be illegally obtained, he may commit such person to the common gaol, "there to be dealt with according to law."]

&c., may be taken before a justice.

8. [If any person keeping any such slaughtering-house slaughter cattle, otherwise than for butchers meat, or flay any cattle brought dead, without taking out a licence or giving such notice as aforesaid, or at other times than those before limited, or do not delay slaughtering according to directions of inspector, such person shall be guilty of felony, and be punished by fine and imprisonment, and corporal punishment by whipping, or be transported for not exceeding seven years.]

Persons slaughtering cattle contrary to this act guilty of felony.

As to transportation see 20 & 21 Vict. c. 3. s. 2., post, p. 412.

9. [Persons immersing in lime or other corrosive matter hides of cattle killed or flayed by them, or guilty of an offence against this act for which no punishment or penalty is imposed, guilty of a misdemeanor, and punishable by fine and imprisonment and corporal punishment by whipping.]

Persons destroying hides, &c. guilty of misdemeanor.

10. [Penalty on licensee for false entry, on conviction upon the oath of two witnesses before one justice, £10, one moiety to the informer, the other to the overseers of the poor.]

Making false entries.

But see 2 & 3 Vict. c. 71. ss. 34, 44, 47., ante, pp 50, 54, 56.

11. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p 56.

12. [Inspector's books to be produced at quarter sessions and examined.]

Inspector's books.

13. [Penalty on any person occasionally lending any place for slaughtering cattle not killed for butchers meat without a licence, on conviction before one justice upon the oath of two witnesses, not more than £20 or less than £10, one moiety to the informer, and the other to the poor, and to be paid to the overseers or one of them; form of conviction.]

Penalty for lending places for slaughtering.

See note on s. 10.

Act not to extend to curriers, &c. killing distempered cattle, &c.

14. [Act not to extend to curriers, felt-makers, tanners or dealers in hides killing distempered or aged cattle, or buying dead cattle for the bonâ fide purpose of selling, using, or curing the hides thereof in the course of their trades, or to farmers employed to kill aged and distempered cattle, or to persons killing cattle of their own or other cattle, or buying dead cattle to feed their dogs.]

Penalty on their killing sound horses, &c.

15. [Penalty on any currier, &c., killing a sound horse, &c., not more than £20 or less than £10.]

Actions.

16. [General issue; treble costs.]

See 5 & 6 Vict. c. 97. s. 2., post, p 413.

7 & 8 VICT. c. 87.

[26 Geo. 3. c. 71. and 5 & 6 Will. 4. c. 59. recited.]

5 & 6 Will. 4. c. 59. is repealed by 12 & 13 Vict. c. 92. s. 1., post, p 137.

1. [New licences to keep places for slaughtering horses or other cattle (not killed for butchers meat) to be annual]

Justices in quarter sessions may cancel licences.

2. It shall be lawful for the justices assembled at any general quarter sessions holden for any county, upon application and complaint in writing by any person, and upon due proof made that the party complaining had given 14 days previous notice in writing to the clerk of the peace, and to the party complained against, and upon due proof to their satisfaction that any person so licensed as aforesaid has been guilty of any breach or violation of the said two recited acts or either of them, or of this act, or any part or parts thereof respectively, to cancel any licence which may have been granted to the person or persons so complained against, and thenceforth the same shall be of no effect.

Persons wantonly or cruelly ill-treating any horse, &c. to be liable to penalty.

3. If any such licensed or other person wantonly or cruelly beat, ill-treat, abuse, wound, or torture any horse or other cattle in any house, pound, stable, or other place in the occupation or use of such licensed person, every such person shall for every such offence, on conviction, pay a sum not exceeding £5.

See also 12 & 13 Vict. c. 92. s. 2., post p. 137.

Power for constables to enter licensed places.

4. It shall be lawful for any constable from time to time, and as often as he thinks fit, at all reasonable times in the

daytime, by authority of this act, either alone or accompanied by any inspector appointed or to be appointed under the first-recited act, to enter upon and view and inspect all and every the houses, stables, sheds, yards, grounds, and premises for the keeping of which any such licence shall have been granted as aforesaid, and also to inspect or take an account of all or any of the horses or other cattle which shall from time to time be found upon such premises or any part thereof.

5. [Penalty for obstructing inspectors, not exceeding £10.] Obstructing inspector.

6. [Penalty for inspector neglecting his duty, not exceeding £10.] Neglect of duty.

7. [Offences may be heard by two justices; part of penalty may be awarded to informer, the remainder to go to the Crown.] Hearing of complaints, &c.

See 2 & 3 Vict. c. 71. ss. 14, 47., ante, pp. 43, 56.

8. [Proceedings for penalties to be commenced within three calendar months.] Limitation of time.

9. [Appeal to quarter sessions.] Appeal.
See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

10. ["County" to include city, town, borough, cinque port, riding, liberty, or division; "horse" to include mare, gelding, mule, pony, colt, or filly; "cattle" to include bull, ox, cow, steer, heifer, calf, ass, sheep, lamb, goat, pig, or any other domestic animal; "constable" to include head-borough, peace officer, or police officer.] Meaning of certain words used in this act.

Cruelty to Animals Prevention.

12 & 13 VICT. c. 92.

1. [5 & 6 Will. 4. c. 59. and 7 Will. 4. & 1 Vict. c. 66. repealed.]

2. If any person cruelly beat, ill-treat, over-drive, abuse, or torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any animal, every such offender shall for every such offence pay not exceeding £5. Penalty for cruelty to animals.

See also 7 & 8 Vict. c. 87. s. 3., ante, p. 136.

As to places kept for bull-baiting, dog-fighting, &c.

3. Every person who keeps or uses or acts in the management of any place for the purpose of fighting or baiting any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, or permits or suffers any place to be so used, shall be liable to a penalty not exceeding £5 for every day he so keeps or uses or acts in the management of any such place, or permits or suffers any place to be used as aforesaid; provided always, that every person who receives money for the admission of any other person to any place kept or used for any of the purposes aforesaid shall be deemed to be the keeper thereof; and every person who in any manner encourages, aids, or assists at the fighting or baiting of any bull, bear, badger, dog, cock, or other animal as aforesaid, shall pay not exceeding £5 for every such offence.*

See also 2 & 3 Vict. c. 47. s. 47., ante, p. 23.

As to damage done by persons guilty of cruelty to animals.

4. [If any person, by cruelly beating, &c. any animal, do any damage or injury to such animal, or cause damage or injury to any person or property, such offender on conviction to pay to the owner of such animal, or to the person sustaining damage or injury, compensation, not exceeding £10, to be determined by the justice by whom such person is convicted: Payment of compensation, or imprisonment for nonpayment, not to prevent or affect the punishment to which such person, or the owner of such animal, may be liable for or in respect of the beating, ill-treating, or abusing of the said animal: Nothing herein to prevent any proceeding by action against the offender, or his employer, where the amount of damage or injury is not sought to be recovered under this act.]

Persons impounding animals to provide food and water.

5. Every person who impounds or confines, or causes to be impounded or confined, in any pound or receptacle of the like nature, any animal, shall provide and supply during such confinement a sufficient quantity of fit and wholesome food and water to such animal; and every such person who refuses or neglects to provide and supply such animal with such food and water as aforesaid shall for every such offence pay a penalty of 20s.

See 17 & 18 Vict. c. 60. s. 1., post, p. 144.

Power to supply food and water to animals impounded.

6. In case any animal be impounded or confined as aforesaid, and continue confined without fit and sufficient food and water for more than 12 successive hours, it shall be

* Assisting at the fighting or baiting must occur at a place kept or used for the purpose to constitute an offence under this section. *Clark v. Hague*, 8 Cox's Criminal Cases, 324.

lawful for any person whomsoever, as often as necessary, to enter any pound or other receptacle of the like nature in which any such animal is so confined, and supply such animal with fit and sufficient food and water during so long a time as such animal remains confined as aforesaid, without being liable to any action of trespass or other proceeding by reason of such entry for the purposes aforesaid; and the reasonable cost of such food and water shall be paid by the owner of such animal, before such animal is removed, to the person who supplies the same, and may be recovered as herein provided for recovery of penalties under this act.

See 17 & 18 Vict. c. 60. s. 1., post, p. 144.

7. [Persons licensed under 26 Geo. 3. c. 71. to keep places for slaughtering horses subject to a penalty not exceeding £5 for neglect to affix names, &c., and to a like penalty for every day the neglect continues.]

Affixing
names, &c.
slaughtering
houses.

8. Every person keeping or using or acting in the management of any place for the purpose of slaughtering horses or other cattle (not intended for butchers meat) shall, immediately upon any horse or other cattle being brought to or delivered at such place for the purpose of being slaughtered, cut off or cause to be cut off the hair from the neck of such horse or other cattle, and within three days from the time of such horse or other cattle being brought or delivered as aforesaid shall kill or cause to be killed the said horse or other cattle, and, until such horse or other cattle shall be killed, shall supply such horse or other cattle with a sufficient quantity of fit and wholesome food and water; and if any person keeping or using or acting in the management of any such place neglect or omit to cut or cause to be cut off the hair of the neck of such horse or other cattle, or to kill or cause to be killed any such horse or other cattle, within the time above limited, or to supply a sufficient quantity of fit and wholesome food and water to such horse or other cattle as aforesaid, every such person shall on conviction of any of the said offences be liable to a penalty not exceeding £5.

Regulations as
to cattle sent to
be slaughtered.

Penalty.

9. If any person keeping or using or having the management of any place for the purpose of slaughtering horses or other cattle (not intended for butchers meat) use or employ or cause or permit to be used or employed any horse or other cattle brought to or delivered at, or being in or upon such place for the purpose of being slaughtered; or permit or suffer any such horse or other cattle to leave the said place, to be employed in any manner of work, every such

Cattle intended
for slaughter
not to be em-
ployed.

Penalty.

person shall be liable to pay a penalty not exceeding 40s. for every day on which such horse or other cattle is so used or employed, or is absent from such place; and every person found using or employing any such horse or other cattle, or in the possession of any such horse or other cattle whilst so used or employed, shall be liable to a penalty not exceeding 40s. for every day he uses or employs or is so possessed of any such horse or other cattle as aforesaid.

Description of cattle to be entered in a book.**Penalty for neglect.**

10. Every person keeping or using or having the management of any place for slaughtering horses or other cattle (not intended for butchers meat) shall, at the time of receiving any horse or other cattle in such place, enter in a book such a full and correct description of the colour, marks, and gender of such horse or other cattle as may clearly distinguish and identify the same; and if any such person refuse or neglect to make or cause to be made such entry in a clear and distinct manner, or refuse or neglect to produce such book before any justice whenever required by such justice so to do, or refuse to allow such book to be inspected, and extracts to be made therefrom, at all reasonable times, by any constable, or other person duly authorized by such justice, every such person shall be liable to a penalty for every such offence not exceeding 40s.

See also 26 Geo. 3. c. 71. s. 4., ante, p. 134.

Horse slaughterer not to be horse dealer.

11. [Persons licensed to slaughter horses not to be licensed as horse dealers, or to be horse dealers at the same time.]

Penalty for improperly conveying animals.

12. If any person convey or carry or cause to be conveyed or carried in or upon any vehicle any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, every such person shall pay a penalty not exceeding £3 for the first offence, and a penalty of £5 for the second and every subsequent offence.

Apprehension of offenders.

13. When and so often as any of the offences against this act happen, it shall and may be lawful for any constable, upon his own view thereof, or upon the complaint and information of any other person who declares his or her name and place of abode to the said constable, to seize and secure by the authority of this act any such offender, and forthwith without any other authority or warrant to convey such offender before a justice, to be dealt with by such justice for such offence according to law.

14. [Complaints under this act to be made within one calendar month after offence committed, and to be determined summarily by any justice within whose jurisdiction the offence is committed.] Limitation of time; hearing of complaints.

15. [Summons may be served personally or left at usual or last known place of abode.] Service of summons.
See 2 & 3 Vict. c. 71. s. 20., ante, p. 45.

16. [Warrant may be issued by justice without summons.] Warrant in first instance.
See 2 & 3 Vict. c. 71. s. 21., ante, p. 45.

17. [Justices may summon witnesses to appear.] Witnesses.
See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

18. [Offenders not paying penalty, &c. may be committed with or without hard labour for not exceeding two calendar months; and where conviction is before two justices or a metropolitan police magistrate, such justices or magistrate may, instead of imposing a pecuniary penalty, commit, with or without hard labour, for not exceeding three calendar months.] Imprisonment for enforcing penalty or in lieu of penalty.
See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

19. Whenever any person having charge of any vehicle or any animal is taken into custody by any constable for any offence against this act, it shall be lawful for such constable to take charge of such vehicle or animal, and deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expenses which may have been or may be necessarily incurred for taking charge of and keeping the same; and it shall be lawful for any justice before whom the case shall have been heard to order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment of such penalty and expenses. Vehicles, &c. may be detained, &c.

20. In case any person at any time or in any manner unlawfully obstruct, hinder, molest, or assault any constable or keeper of a pound while in the exercise of any power or authority under or by virtue of this act, every such person shall pay a penalty not exceeding £5 for every such offence. Penalty for obstructing constable or pound keeper.

See 2 & 3 Vict. c. 47. s. 18., and references thereon, ante, p. 14.

Distribution
of penalties.

21. [All pecuniary penalties recovered before any justice under this act to be paid as follows ; (that is to say,) one moiety to the overseers of the poor of the parish in which the offence has been committed, to be applied in aid of the rates of the parish, and the other moiety to the prosecutor, or to such other person as to such justice seems proper ; and every sum of money ordered by any justice under this act to be paid as the amount of damage or injury occasioned by any of the offences before mentioned shall be paid to the person who sustained such damage or injury, according to the order of such justice.]

But see 2 & 3 Vict. c. 71. ss. 34. 47., ante, pp. 50, 56 ; see also 18 & 19 Vict. c. 126. s. 22., post, p. 383.

Proprietors of
public vehicles
may be sum-
moned to pro-
duce their
servants.

22. When any complaint is made before any justice against the driver or conductor of any hackney carriage, or the driver or conductor of any stage carriage, or the driver of any cart, waggon, van, or other vehicle, for any offence committed by him against this act, it shall be lawful for such justice, if he think proper, forthwith to summon the proprietor of such hackney or stage carriage, or the owner of such cart, waggon, van, or other vehicle, to produce before him the driver, conductor, or other servant, by whom such offence was committed, to answer such complaint ; and in case such proprietor or owner, after being duly summoned, fail to produce the driver, conductor, or servant, it shall be lawful for the justice before whom such driver, conductor, or servant is required to be produced, if he think fit, to proceed, in the absence of such driver, conductor, or servant, to hear and determine the case, in the same manner as if he had been produced, and to adjudge payment, by the proprietor or owner, of any penalty or sum of money and costs in which the driver, conductor, or servant is convicted ; and any sum of money so paid by the proprietor or owner shall and may be recovered in a summary way from the driver, conductor, or servant through whose default such sum has been paid, upon proof of payment thereof, and of such servant's refusing or neglecting to be produced pursuant to the order of the justice, in the same manner as penalties are to be recovered under this act : Provided always, that if the said justice deem it proper, it shall be lawful for him, when such proprietor or owner fails to produce his driver, conductor, or servant, without any satisfactory excuse, to be allowed by such justice, to impose a fine of 40s. upon such proprietor or owner, and so from time to time, as often as he is summoned in respect of such complaint, until he produces the said driver, conductor, or servant.

23. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

Form.

24. [Convictions to be transmitted to general or quarter sessions.]

Transmission
to quarter
sessions.

25. [Appeal to general or quarter sessions.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

Appeal.

26. [Convictions not to be quashed for want of form or removed.]

Informality.

See 2 & 3 Vict. c. 71. s. 49., ante p. 56.

27. [Actions for anything done under this act to be brought within two calendar months; one calendar month's notice in writing to be given; venue; general issue; tender of amends; payment into court.]

Actions.

See 15 & 16 Vict. c. 76. (Common Law Procedure) s. 70.

28. [In what cases plaintiff to be nonsuited or defendant to have a verdict; costs.]

See 5 & 6 Vict. c. 97. s. 2., post, p. 413.

29. [The following words and expressions to have the meanings hereby assigned to them respectively, so far as not excluded by the context or the nature of the subject matter; (that is to say,)]

Meaning of
certain words.

"Justice" to mean a justice of the peace or magistrate for the county, &c. in which any offence against this act is committed, or the matter requiring the cognizance of any justice or magistrate arises:

"Animal" to mean horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or other domestic animal:

"Constable" to mean any headborough, parish beadle, peace officer, special constable, or any person belonging to the Metropolitan or city of London Police Forces, or any constabulary force in any part of the United Kingdom :.....

Singular to include the plural, and masculine the feminine, and the word "over-drive" also to signify over-ride.]

Amended by 17 & 18 Vict. c. 60. s. 3., post, p. 144.

17 & 18 VICT. c. 60.

Persons
impounding
animals, and
providing food,
&c., may
recover
expenses.
Power to sell
animals, &c.
after being
impounded
seven days.

1. Every person who impounds or confines as in 12 & 13 Vict. c. 92. [see ss. 5, 6.] mentioned, any animal, and provides and supplies such animal with food and water as therein mentioned, is hereby authorized to recover from the owner or owners of such animal not exceeding double the value of the food and water so supplied in like manner as by the said act provided for the recovery of penalties under the same act; and every person who supplies such food and water shall be at liberty, if he so think fit, instead of proceeding for the recovery of the value thereof as aforesaid, after the expiration of seven clear days from the time of impounding the same, to sell any such animal openly at any public market (after having given three days public printed notice thereof) for the most money that can be got for the same, and to apply the produce in discharge of the value of such food and water so supplied as aforesaid, and the expenses of and attending such sale, rendering the overplus (if any) to the owner of such animal.

Dog carts.

2. [Provision of 2 & 3 Vict. c. 47. [see s. 56.] as to the using of dogs for purposes of draught within the Metropolitan District extended to all parts of the United Kingdom.]

Interpretation
of terms.

3. The words and expressions to which a meaning is affixed by 12 & 13 Vict. c. 92., and which are introduced into this act, shall have the same meaning in this act, and the word animal shall in the said act and in this act mean any domestic animal, whether of the kind or species particularly enumerated in clause 29 of the said act or of any other kind or species whatever, and whether a quadruped or not.

HOUSELESS POOR, RELIEF OF, IN DISTRICT ASYLUMS.

7 & 8 VICT. c. 101.

Formation of
houseless poor
asylum dis-
tricts, &c.

41, 42. [Poor law commissioners may form parishes, &c. any part of which is within the Metropolitan Police District into districts for providing and managing asylums for temporary relief of destitute houseless poor; boards to be constituted for such districts.]

Class of
destitute poor
to be relieved in
asylum.

53. Every district board for the management of any asylum under this act shall make provision for the temporary relief and setting to work therein of any poor person found

destitute within any such district, not professing to be settled in any parish included therein, and not known to have any place of abode there, and not being charged with any offence under the provisions of 5 Geo. 4. c. 83. (the Vagrant Act), or of any other act; and, subject to any regulations of the said commissioners, every such district board or any committee thereof may direct the mode of admission of such poor persons to the asylum of such district; and it shall be lawful for any constable of the Metropolitan Police personally to conduct any such poor person found wandering abroad within any district to any asylum established in such district in pursuance of this act, and such poor person shall, if there be room in such asylum, be temporarily relieved therein; and the serjeant of police or constable conducting such poor person shall sign his name in a column, headed to the following effect in a book to be kept in such form and manner as the said commissioners may from time to time direct, by some officer of every such asylum, in which shall be entered the alleged names of all poor persons admitted:

Mode of admission into asylum.

‘ We, the undersigned constables of the Metropolitan Police, do severally declare, so far as each of us is concerned therein, that we have conducted the poor persons (whose alleged names are set opposite to our respective signatures) to the asylum of _____ district, the said poor persons having been by us found wandering abroad, and apparently destitute, and not having committed or being charged with any offence punishable by law, within our knowledge.’

and every such book, purporting to be signed and to be certified at the foot of the page by the officer keeping the same, shall be received in all courts of justice as sufficient evidence of the fact that the poor persons described therein were chargeable to the said district at the time of their admission, and, if not contradicted by other evidence, of such other particulars as are therein duly recorded; and all poor persons admitted into any such asylum shall, if they desire it, be relieved with food and lodging for the night succeeding such admission; but no such poor person shall be detained against his will for any longer space of time than until the ordinary hour of breakfast of the day next succeeding his admission, and four hours afterwards, unless such poor person, since his admission, have become lawfully punishable for misbehaviour within such asylum, in which case it shall be lawful to detain such poor person for a space of time sufficient for such punishment; but no poor person shall be punished for any offence or misbehaviour in any.

Regulation with respect to poor persons admitted into asylum.

asylum by confinement for any longer space of time than 24 hours, and such longer space of time as may be necessary in order to have such person before a justice; and if any poor person so admitted as aforesaid be disabled by sickness, or be unwilling to depart from such asylum, he may receive relief therein, if he consent to remain and conform to the rules of the house, until the next meeting of the district board or of some committee (which such district board, subject to the rules of the said commissioners, is hereby authorized to appoint), who shall give such directions respecting such poor person as they may deem right, by discharging him from such asylum, with a direction to apply for relief in the district where he has dwelt, or otherwise as to them may seem fit:

Provided always, that, except under a medical certificate of sickness, it shall not be lawful for the officer of any such asylum to relieve any poor person for a longer period continuously in such asylum than is sufficient to enable his case to be decided by the district board or committee as aforesaid:

Provided also, that if any person received into such asylum wilfully give a false name, or make a false statement, or be proved to have given two or more different names on two or more different occasions, when so received into any such asylum, such person not having lawfully changed her name in consequence of marriage, such person shall be deemed a rogue and vagabond within the meaning of 5 Geo. 4. c. 83. (the Vagrant Act). [Liabilities of persons relieved in asylums.]

Act not to
relieve guar-
dians, &c.
from existing
obligations,
&c.

54. Provided always, that nothing in this act shall relieve any guardian, overseer, relieving officer, or master of a workhouse from any obligation now imposed upon him by law with regard to the relief of cases of sudden and urgent necessity, or prevent the reception into a workhouse of any person labouring under dangerous illness, or shall authorize the transfer to an asylum of any person received into such workhouse in a case of dangerous illness, unless with the certificate in writing of a medical man duly licensed to practise, to the effect that such person is then in a fit state to be removed, and stating the manner in which such person in the opinion of such medical man, may be safely removed.

THEATRES REGULATION.

6 & 7 VICT. c. 68.

Repeal of acts. 1. [Repeal of 3 Jac. 1. c. 21., 10 Geo. 2. c. 19., 10 Geo. 2. c. 28., and 28 Geo. 3. c. 30: Saving for licences in force.]

2. Except as aforesaid it shall not be lawful for any person to have or keep any house or other place of public resort in Great Britain for the public performance of stage plays, without authority by virtue of letters patent from Her Majesty, Her heirs and successors, or predecessors, or without licence from the lord chamberlain of Her Majesty's household, or from justices as herein-after provided; and every person who offends against this enactment shall be liable to forfeit such sum as shall be awarded by the court in which or the justices by whom he is convicted, not exceeding £20 for every day on which such house or place has been so kept open by him for the purpose aforesaid without legal authority.*

All theatres for the performance of plays must be licensed.

See 2 & 3 Vict. c. 47. s. 46., ante, p. 22.

3. The authority of the lord chamberlain for granting licences shall extend to all theatres (not being patent theatres) within the parliamentary boundaries of the cities of London and Westminster, and of the boroughs of Finsbury and Marylebone, the Tower Hamlets, Lambeth, and Southwark,† and also within those places where Her Majesty, her heirs and successors, shall in their Royal persons occasionally reside: Provided always, that, except within the cities and boroughs aforesaid, and the boroughs of New Windsor and Brighthelmstone, licences for theatres may be granted by the justices, as herein-after provided, in those places in which Her Majesty, her heirs and successors, shall occasionally reside, but such licences shall not be in force during the residence there of Her Majesty, her heirs and successors, and during such residence it shall not be lawful to open such theatres as last aforesaid (not being patent theatres), without the licence of the lord chamberlain.

What licences shall be granted by the lord chamberlain.

4. [Fee for lord chamberlain's licence.]

5. The justices within every county, riding, division, liberty, cinque port, city, and borough in Great Britain beyond the limits of the authority of the lord chamberlain, in which application is made to them for any such licence as is herein-after mentioned, shall, within 21 days after such application has been made to them in writing signed by the party making the same, and countersigned by at least two justices acting in and for the division

Licences may be granted by justices.

* This enactment does not apply to a booth capable of being taken to pieces and set up again, and which is carried about the country by a company of strolling players. *Davis v. Douglas*, 4 Hurlstone & Norman's Rep. 180.

† The parliamentary boundaries of the city of London comprise "the whole space contained within the exterior boundaries of the liberties of the city of London including the Inner Temple and the Middle Temple." For the parliamentary boundaries of the other places mentioned, see ante, p. 24, note †.

within which the property proposed to be licensed is situate, and delivered to the clerk to the said justices, hold a special session in the division, district, or place for which they usually act, for granting licences to houses for the performance of stage plays, of the holding of which session seven days notice shall be given by their clerk to each of the justices acting within such division, district, or place; and every such licence shall be given under the hands and seals of four or more of the justices assembled at such special session, and shall be signed and sealed in open court, and afterwards shall be publicly read by the clerk with the names of the justices subscribing the same.

6. [Fee for justices' licence.]

To whom
licences shall
be granted, &c.

7. No such licence for a theatre shall be granted by the lord chamberlain or justices to any person except the actual and responsible manager for the time being of the theatre in respect of which the licence is granted; and the name and place of abode of such manager shall be printed on every playbill announcing any representation at such theatre; and such manager shall become bound himself in such penal sum as the lord chamberlain or justices shall require, being in no case more than £500, and two sufficient sureties to be approved by the lord chamberlain or justices, each in such penal sum as the lord chamberlain or justices shall require, being in no case more than £100 for the due observance of the rules in force at any time during the currency of the licence, and for securing payment of the penalties which such manager may be adjudged to pay for breach of the rules, or any of the provisions of this act.

Lord chamber-
lain may sus-
pend licences
or close patent
theatres.

8. In case it appear to the lord chamberlain that any riot or misbehaviour has taken place in any theatre licensed by him, or in any patent theatre, it shall be lawful for him to suspend such licence or to order such patent theatre to be closed for such time as to him shall seem fit; and it shall also be lawful for the lord chamberlain to order that any patent theatre or any theatre licensed by him shall be closed on such public occasions as to the lord chamberlain shall seem fit; and while any such licence is suspended, or any such order is in force, the theatre to which the same applies shall not be entitled to the privilege of any letters patent or licence, but shall be deemed an unlicensed house.

Rules for
enforcing order
in the theatres

9. The said justices at a special licensing session, or at some adjournment thereof, shall make suitable rules for

ensuring order and decency at the several theatres licensed by them within their jurisdiction, and for regulating the times during which they shall severally be allowed to be open, and from time to time, at another special session, of which notice shall be given as aforesaid, may rescind or alter such rules; and it shall be lawful for any one of Her Majesty's principal secretaries of state to rescind or alter any such rules, and also to make such other rules for the like purpose, as to him shall seem fit; and a copy of all rules in force for the time being shall be annexed to every such licence; and in case any riot or breach of the said rules in any such theatre is proved on oath before any two justices usually acting in the jurisdiction where such theatre is situated, it shall be lawful for them to order that the same be closed for such time as to the said justices shall seem fit; and while such order is in force the theatre so ordered to be closed shall be deemed an unlicensed house.

licensed by the justices.

11. Every person who for hire acts or presents, or causes, permits, or suffers to be acted or presented, any part in any stage play, in any place not being a patent theatre or duly licensed as a theatre, shall forfeit such sum as shall be awarded by the court in which or the justices by whom he is convicted, not exceeding £10 for every day on which he so offends.

Penalty on persons performing in unlicensed places.

See 2 & 3 Vict. c. 47. s. 46., ante, p. 22.

12. [No new plays or additions to old ones to be acted until submitted to the lord chamberlain.]

Plays to be approved.

13. [Fees to be paid for examination of plays.]

14. [Lord chamberlain may forbid any play.]

15. Every person who for hire acts or presents, or causes to be acted or presented, any new stage play, or any act, scene, or part thereof, or any new prologue or epilogue, or any part thereof, until the same has been allowed by the lord chamberlain, or which has been disallowed by him, and also every person who for hire acts or presents, or causes to be acted or presented, any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, contrary to such prohibition as aforesaid, shall for every such offence forfeit such sum as shall be awarded by the court in which or the justices by whom he is convicted, not exceeding the sum of £50; and every licence (in case there be any such) by or under which the

Penalty for acting plays before they are allowed or after they have been disallowed.

theatre was opened, in which such offence has been committed, shall become void.

What shall be evidence of acting for hire.

16. In every case in which any money or other reward is taken or charged, directly or indirectly, or in which the purchase of any article is made a condition for the admission of any person into any theatre to see any stage play, and also in every case in which any stage play is acted or presented in any house, room, or place in which distilled or fermented exciseable liquor is sold, every actor therein shall be deemed to be acting for hire.

Proof of licence in certain cases to lie on the party accused.

17. In any proceedings to be instituted against any person for having or keeping an unlicensed theatre, or for acting for hire in an unlicensed theatre if it be proved that such theatre is used for the public performance of stage plays, the burden of proof that such theatre is duly licensed or authorized shall lie on the party accused, and until the contrary be proved such theatre shall be taken to be unlicensed.

Penalties how to be recoverable.

19. [All the pecuniary penalties imposed by this act may be recovered in any of the courts of record at Westminster or in a summary way before two justices, and in default of payment of such penalty, with costs, the same may be levied by distress; and for want of sufficient distress the offender may be imprisoned for not exceeding six calendar months.]

See 2 & 3 Vict. c. 71. ss. 14, 45., ante, pp. 43, 55.

Appeal.

20. It shall be lawful for any person who thinks himself aggrieved by any order of such justices to appeal to the next general or quarter session.

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

Appropriation of penalties.

21. The said penalties for any offence against this act shall be paid and applied in the first instance toward defraying the expenses incurred by the prosecutor, and the residue thereof (if any) shall be paid to the use of Her Majesty.

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Limitation of time for prosecution.

22. No person shall be prosecuted for any offence against this act unless such prosecution be commenced within six calendar months after the offence committed.

Interpretation of act.

23. In this act the word "stage play" shall be taken to include every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment

of the stage, or any part thereof: Provided always, that nothing herein contained shall be construed to apply to any theatrical representation in any booth or show which by the justices, or other persons having authority in that behalf, shall be allowed in any lawful fair, feast, or customary meeting of the like kind.

LICENCES FOR SALE OF BEER, SPIRITS, AND WINE IN THEATRES, &c.

5 & 6 Will. 4. c. 39.

7. [Commissioners and officers of excise authorized to grant retail licences to sell beer, spirits, and wine in any theatre established under a royal patent, or in any theatre or other place of public entertainment licensed by the lord chamberlain or justices, without production of any certificate or authority for such person to keep a common inn alehouse, or victualling house.]

Licences may be granted to sell beer, spirits, and wine in theatres, &c. without the production of a certificate.

GAMING HOUSES AND BETTING HOUSES.

Common Gaming Houses.

8 & 9 VICT. c. 109.

1. [Repeal of part of 33 Hen. 8. c. 9.]

2. In default of other evidence proving any house or place to be a common gaming house, it shall be sufficient, in support of the allegation in any indictment or information that any house or place is a common gaming house, to prove that such house or place is kept or used for playing therein at any unlawful game, and that a bank is kept there by one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet; and every such house or place shall be deemed a common gaming house such as is contrary to law and forbidden to be kept by the said act of King Henry the Eighth, and by all other acts containing any provision against unlawful games or gaming houses.

What shall be sufficient evidence that a house is a common gaming house.

See 17 & 18 Vict. c. 38. s. 2., post, p. 158., 16 & 17 Vict. c. 119. s. 2., post, p. 162.

Section 3. does not apply to the Metropolitan Police District.

Penalties on gaming house keepers, &c.

4. The owner or keeper of any common gaming house, and every person having the care or management thereof, and every banker, croupier, and other person who acts in any manner in conducting the business of any common gaming house, shall, on conviction before two justices, beside any penalty or punishment to which he may be liable under the said act of King Henry the Eighth, be liable to such penalty, not more than £100, as shall be adjudged by the justices before whom he is convicted, or, in the discretion of the justices, may be committed with or without hard labour for not more than six calendar months; [penalty may be levied by distress and sale; nothing herein to prevent any proceeding by indictment, but no person summarily convicted to be proceeded against by indictment for the same offence.]

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43. and 17 & 18 Vict. c. 38. s. 4., post, p. 159.

Proof of gaming for money, &c. not necessary in support of informations for gaming, &c.

5. It shall not be necessary, in support of any information for gaming in, or suffering any games or gaming in, or for keeping or using or being concerned in the management or conduct of a common gaming house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Commissioner of Police may authorize superintendent and constables to enter gaming houses, and seize all instruments of gaming, and take into custody all persons found therein.

6. If any superintendent belonging to the Metropolitan Police Force report in writing to the Commissioners of Police of the Metropolis that there are good grounds for believing, and that he does believe, that any house, room, or place within the Metropolitan Police District is kept or used as a common gaming house, it shall be lawful for either of the said Commissioners, by order in writing, to authorize the superintendent to enter any such house, room, or place, with such constables as shall be directed by the Commissioner to accompany him, and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who shall be found therein, and to seize all tables and instruments of gaming found in such house or premises, and also to seize all monies and securities for money found therein.

See 19 & 20 Vict. c. 2. s. 5., ante, p. 2., and 17 & 18 Vict. c. 38., post, p. 157. See also 2 & 3 Vict. c. 47. s. 48., ante, p. 23.

7. It shall be lawful for the police superintendent making such entry as aforesaid, in obedience to any such order of one of the Commissioners of Police of the Metropolis, with the assistance of any constable or constables accompanying him, to search all parts of the house, room, or place which he shall have so entered where he shall suspect that tables or instruments of gaming are concealed, and all persons whom he shall find therein, and to seize all tables and instruments of gaming which he shall so find.

Police superintendent may search for instruments of gaming.

8. Where any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any unlawful game shall be found in any house, room, or place suspected to be used as a common gaming house, and entered under a warrant or order issued under this act, or about the person of any of those who are found therein, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming have been found were playing therein, although no play was actually going on in the presence of the superintendent or constable entering the same under a warrant or order issued under this act, or in the presence of those persons by whom he is accompanied as aforesaid; and it shall be lawful for the police magistrate or justices before whom any person is taken by virtue of the warrant or order to direct all such tables and instruments of gaming to be forthwith destroyed.

What shall be deemed evidence of gaming.

See 17 & 18 Vict. c. 38. s. 2., post, p. 158.

9. [Witnesses making full discovery and receiving a certificate to that effect freed from punishment.]

Exemption of witnesses, &c.

See also 17 & 18 Vict. c. 38. s. 6., post, p. 160.

10. [Justices at the general annual licensing meeting, or any adjournment thereof, may grant billiard licences to such persons as they deem fit to keep public billiard tables and bagatelle boards, or instruments used in any game of the like kind, and at the special sessions holden for transferring licences to keep inns may transfer such billiard licences to such other persons as they deem fit, and who in each case are to give the like notice of intention to apply for such billiard licence, and are to receive the like notice of the licensing days as in the case of persons intending to apply for a victualler's licence or the transfer of a victualler's licence, or as near thereto as the case allows;*

Justices may grant billiard licences at licensing sessions.

* There is no appeal to quarter sessions against refusal to grant a billiard licence. *Ex parte Chamberlaine*, 8 Ellis and Blackburn's Rep., 644.

every such billiard licence to be in the form in the third schedule to this act, and to be in force in Middlesex and Surrey from 5th April, and elsewhere from 10th October, after the granting thereof, for one year; the clerk of the justices to receive from every person licensed, for the petty constable or other peace officer, for serving notices and other services required of him, 1s., and for himself for the licence 5s.; every clerk receiving more than such sums on conviction before one justice to forfeit £5.]

Places kept for public billiard tables to be licensed.

Notice that such places are licensed for billiards to be put up.

Consequence of non-compliance with act.

11. Every house, room, or place kept for public billiard playing, or where a public billiard table or bagatelle board, or instrument used in any game of the like kind, is kept, at which persons are admitted to play, except in houses or premises specified in any licence granted under 9 Geo. 4. c. 61., herein-after called a victualler's licence, shall be licensed under this act; and every person keeping any such public billiard table or bagatelle board or instrument used in any game of the like kind for public use, without being duly licensed so to do, and not holding a victualler's licence for the house or premises where such billiard table, bagatelle board, or other instrument as aforesaid is kept or used, and also every person licensed under this act who does not during the continuance of such billiard licence put and keep up the words "Licensed for Billiards," legibly printed in some conspicuous place near the door and on the outside of the house specified in the licence, shall be liable to be proceeded against as the keeper of a common gaming house, and, beside any penalty or punishment to which he may be liable if convicted of keeping a common gaming house, shall, on conviction of keeping such unlicensed billiard table, bagatelle board, or other instrument as aforesaid, by his own confession, or by the oath of one or more credible witnesses before any police magistrate or two justices, be liable to pay such penalty, not more than £10 for every day on which such billiard table, bagatelle board, or instrument as aforesaid is used, as shall be adjudged by the magistrate or justices before whom he is convicted, or, in the discretion of the magistrate or justices, may be committed to the house of correction, with or without hard labour, for not more than one calendar month; [penalty may be levied by distress and sale; no person, summarily convicted, to be further proceeded against by indictment for the same offence.]

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

Penalties for offences against tenor of licences, &c.

12. Every person licensed under this act who is convicted before a police magistrate or two justices acting in and for

the division or place in which is situated the house kept or theretofore kept by such person, of any offence against the tenor of the licence to him granted shall be liable to the same penalties and punishments in the case of a first, second, or third offence respectively to which persons licensed under 9 Geo. 4. c. 61., are respectively liable on conviction of a first, second, or third offence against the tenor of the licence granted to them under that act, or as near thereunto as the nature of the case will allow; and all the provisions of the last-recited act with respect to convictions and penalties for offences against the last-recited act, and the proceedings for enforcing the same, and to the expenses of prosecution, and penalties on witnesses for not attending, and the recovery and application of penalties, and the proceedings on appeals against convictions, and the award of costs on appeals, and in actions against justices, constables, or other persons for anything done in execution of the last-recited act, shall be deemed to apply, so far as they are applicable, to convictions for offences against the tenor of the licences granted under this act, and to the proceedings consequent thereupon or connected therewith, as if they were herein re-enacted.

13. Every person keeping any public billiard table or bagatelle board or instrument used in any game of the like kind, whether he be the holder of a victualler's licence or licensed under this act, who allows any person to play at such table, board, or instrument after one and before eight of the clock in the morning of any day, or at any time on Sundays, Christmas Day, or Good Friday, or any day appointed to be kept as a public fast or thanksgiving; and every person holding a victualler's licence who allows any person to play at such table, board, or instrument kept on the premises specified in such victualler's licence at any time when such premises are not by law allowed to be open for the sale of wine, spirits, or beer, or other fermented or distilled liquors, shall be liable to the penalties herein provided in the case of persons keeping such public billiard table, bagatelle board, or instrument as aforesaid for public use without licence; and during those times when play at such table, board, or instrument is not allowed by this act, every house licensed under this act and every billiard room in every house specified in any victualler's licence, shall be closed, and the keeping of the same open, or allowing any person to play therein or thereat, at any of the times or on any of the days during which such play is not allowed by this act, shall be deemed

When billiard playing shall not be allowed.

Consequence of non-compliance with act.

in each case an offence against the tenor of the licence of the person so offending.

Empowering
constables to
visit licensed
houses.

Consequence
of non-admis-
sion.

14. It shall be lawful for all constables and officers of police to enter into any house, room, or place where any public table or board is kept for playing at billiards, bagatelle, or any game of the like kind, when and so often as such constables and officers think proper; and every person licensed under 9 Geo. 4. c. 61. or this act, who refuses to admit or does not admit any such constable or officer of police into such house, room, or place, shall, on conviction thereof before a police magistrate or any two justices, be deemed guilty of an offence against the tenor of his licence, whether the same be a billiard licence or a victualler's licence, and in the case of a first, second, third, or subsequent offence shall be punished accordingly.

See 17 & 18 Vict. c. 38. s. 1., post, p. 157.

Sections 15 and 16 do not require to be noticed.

Cheating at play
to be punished
as obtaining
money by false
pretence.

17. Every person who by any fraud or unlawful device or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, wins from any other person to himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be punished accordingly.

See 24 & 25 Vict. c. 96. s. 88., post, p. 445.

Wagers not
recoverable at
law.

18. [All contracts or agreements by way of gaming or wagering to be void, and no suit to be maintained for money or valuable thing alleged to be won upon any wager or deposited with a stakeholder; this enactment not to apply to any subscription or contribution to any plate, prize, or sum of money to be awarded to the winner or winners of any lawful game, sport, pastime, or exercise.]

Appeal to
quarter ses-
sions.

20. [Any person summarily convicted may appeal to the next general or quarter session.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

Informality.

21. [Distress not unlawful for want of form, &c.]

See 2 & 3 Vict. c. 71. s. 51., ante, p. 57.

22. [Plaintiff not to recover for any irregularity, &c. after tender of amends; payment of money into court.] Tender of amends, &c.

See 15 & 16 Vict. c. 76. s. 70. (Common Law Procedure).

23. [One calendar month's notice in writing of action for anything done or omitted under the act required; actions to be brought within three calendar months.] Notice of action, &c.

25. No proceeding before or by any justice or justices shall be quashed for want of form or removed by certiorari. Conviction, &c. not to be quashed for informality, &c.

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

The THIRD SCHEDULE to which the foregoing Act refers.
[*See s. 10.*]

Form of Licence.

At the general licensing annual meeting [or an adjournment of the general annual licensing meeting, or at a special petty session] of Her Majesty's Justices of the Peace acting for the division [or liberty, &c., as the case may be,] of _____ in the county of _____ holden at _____ on the _____ day of _____ in the year _____ for the purpose of granting billiard licences, we being _____ of Her Majesty's Justices of the Peace acting for the said county [or liberty, &c., as the case may be], and being the majority of those assembled at the said session, do hereby authorize and empower A.L. now dwelling at _____ in the parish of _____ to keep a house for public billiard playing at [here specify the house], provided that he [or she] put and keep up the words "Licensed for Billiards" legibly printed in some conspicuous place near the door and on the outside of the said house, and do not wilfully or knowingly permit drunkenness or other disorderly conduct in the said house, and do not knowingly allow the consumption of exciseable liquors therein by the persons resorting thereto, and do not knowingly suffer any unlawful games therein, and do not knowingly suffer persons of notoriously bad character to assemble and meet together therein, and do not open the said house for play or allow any play therein after one and before eight of the clock in the morning, or keep it open or allow any play therein on Sundays, Christmas Day, or Good Friday, or on any day appointed for a public fast or thanksgiving, but do maintain good order and rule therein: and this licence shall continue in force from the _____ day of _____ next until the _____ day of _____ then next following, and no longer.

Given under our hands and seals on the day and at the place first written

17 & 18 VICT. c. 38.

1. Any person who wilfully prevents any constable or officer authorized under 8 & 9 Vict. c. 109. to enter any house, room, or place from entering the same or any part thereof, or who obstructs or delays any such constable or officer in so entering, and any person who, by any bolt, bar, chain, or other contrivance, secures any external or internal door of or means of access to any house, room, or place so authorized to be entered, or uses any means or con- Penalty on persons obstructing the entry of constables authorized to enter any house suspected to be a common gaming house.

trivance whatsoever for the purpose of preventing, obstructing, or delaying the entry of any constable or officer authorized as aforesaid into any such house, room, or place, or any part thereof, may for every such offence, on a summary conviction before two justices, be adjudged by such justices to pay any penalty not exceeding £100, with such costs attending the conviction as to the said justices appear reasonable; and on nonpayment, or in the first instance if to the said justices it seem fit, may be committed, with or without hard labour, for not exceeding six calendar months.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Obstructing
entry of con-
stables to be
evidence of
house being a
common
gaming house.

2. Where any constable or officer authorized as aforesaid to enter any house, room, or place is wilfully prevented from or obstructed or delayed in entering the same or any part thereof, or where any external or internal door or any means of access to any such house, room, or place, so authorized to be entered is found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part thereof of any constable or officer authorized as aforesaid, or for giving an alarm in case of such entry, or if any such house, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house within the meaning of this act and of the former acts relating to gaming, and that the persons found therein were unlawfully playing therein.

Penalty on
persons appre-
hended for
giving false
names or
addresses.

3. If any person found in any house, room, or place entered by any constable or officer authorized as aforesaid to enter the same, upon being arrested by any such constable or officer, or upon being brought before any justices, on being required by such constable or officer or by such justices to give his name and address, refuse or neglect to give the same, or give any false name or address, he may, upon summary conviction thereof before the same or any other justices, be adjudged to pay any penalty not exceeding £50, together with such costs as to such justices appear reasonable, and on nonpayment, or in the first instance if to such justices it seem fit, may be imprisoned for not exceeding one month.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

4. Any person, being the owner or occupier, or having the use of any house, room, or place who opens, keeps, or uses the same for the purpose of unlawful gaming being carried on therein, and any person who, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept, or used by any other person for the purpose aforesaid, and any person having the care or management of or in any manner assisting in conducting the business of any house, room, or place opened, kept, or used for the purpose aforesaid, and any person who advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place, may, on summary conviction thereof before any two justices, be adjudged by such justices to pay such penalty not exceeding £500 as to such justices shall seem fit, and to pay such costs attending such conviction as to them shall seem reasonable; and on nonpayment, or in the first instance if to the said justices it seem fit, may be committed, with or without hard labour, for not exceeding 12 calendar months.

Penalties on persons keeping gaming houses.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43, and 8 & 9 Vict. c. 109. s. 4., ante, p. 152.

5. It shall be lawful for the justices before whom any persons are brought who have been found in any house, room, or place entered in pursuance of any authority granted under 8 & 9 Vict. c. 109., to require any of such persons to be examined on oath and give evidence touching any unlawful gaming in such house, room, or place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such house, room, or place or any part thereof of any constable or officer authorized as aforesaid; and no person so required to be examined as a witness shall be excused from being so examined when brought before such justices as aforesaid, or from being so examined at any subsequent time, by or before the same or any other justices, or by or before any court, on any proceeding, or the trial of any indictment, information, action, or suit in anywise relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person appearing as a witness before any justices or court in

Justices may require any of the persons apprehended to be sworn and give evidence.

Penalty on refusing to be sworn, &c.

obedience to a summons or subpoena, and refusing, without lawful cause or excuse, to be sworn or to give evidence, may by law be dealt with.

Exemption
of witnesses
from penalties.

6. [Persons required to be examined as witnesses, and making a full discovery, to receive a certificate to that effect, and be freed from all penalties, &c.]

See also 8 & 9 Vict. c. 109. s. 9., ante, p. 153.

Levying of
penalties and
costs.

7. [Penalties and costs may be levied by distress.] Provided always, that if any person be committed for default of payment of any penalty and costs, the costs alone may be levied by distress as aforesaid.

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

Application of
penalties.

8. One half of any pecuniary penalty adjudged to be paid under this act shall be paid to the person laying the information upon which the conviction takes place, and the remaining half shall be applied in aid of the poor rate of the parish, and for that purpose shall be paid to the overseers, &c.*

But see 2 & 3 Vict. c. 71. ss. 34. 47., ante, pp. 50, 56.

On neglect to
prosecute any
summons,
justices may
authorize some
other person to
proceed.

9. In case any person who has laid any information in respect of any offence against this act do not appear at the time at which the defendant has been summoned to appear, or at any time to which the hearing of the summons may have been adjourned, or, if such person, in the opinion of any justices having authority to adjudicate with respect to the offence charged in such information as aforesaid, have otherwise neglected to proceed upon or prosecute such information with due diligence, it shall be lawful for such justices to authorize any other person to proceed on such information and summons instead of the person to whom the same may have been granted, or such justices may dismiss the first information and summons, and authorize any person to lay a fresh information in respect to the offence charged in such first information, in like manner as if the previous summons had not been granted.

Appeal to
quarter ses-
sions.

10. [Any person summarily convicted may appeal to the next general or quarter session of the peace; witness, on producing magistrate's or justice's certificate of being bound to attend, to be allowed compensation for time, &c. in

* On a summary conviction before a Metropolitan Police Magistrate, appealed against and affirmed, held that the half of the penalty adjudged to be paid which was not payable to the informer was payable to the Receiver of the Metropolitan Police. *Wray v. Ellis, Ellis and Ellis's Rep.*, 276.

attending appeal, to be paid by treasurer of the county, &c. as in cases of misdemeanor, under 7 Geo. 4. c. 64.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56 ; and see 7 Geo. 4. c. 64., post, p. 339.

11. [On appeal, no objection to be allowed to the information or conviction on matter of form or insufficiency of statement, provided it appear to the quarter sessions that the defendant has been sufficiently informed of the charge, and that such conviction was proper on the merits; and no information, conviction, or judgment of general or quarter sessions to be removed by certiorari.]

No objection allowed to information, &c. in matter of form.

Judgment, &c. not removable by certiorari.

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

12. [Distress not unlawful for want of form, &c.]

Sec 2 & 3 Vict. c. 71. s. 51., ante, p. 57.

Informality of distress.

13. [Plaintiff not to recover after tender of amends before action; payment into court.]

See 15 & 16 Vict. c. 76. (Common Law Procedure) s. 70.

Tender of amends, &c.

14. [One calendar month's notice in writing of action for anything done or omitted under this act required; actions, &c. to be brought within three calendar months.]

Notice of action, &c.

Betting Houses Suppression.

16 & 17 VICT. c. 119.

1. No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof, betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper, or person as aforesaid as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport, or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place opened, kept, or used for the purposes aforesaid, or any of

No house, &c. to be kept for purpose of owner or occupier betting with other persons.

them, is hereby declared to be a common nuisance and contrary to law.

Betting houses to be gaming houses within 8 & 9 Vict. c. 109.

2. Every house, room, office, or place opened, kept, or used for the purposes aforesaid, or any of them, shall be deemed to be a common gaming house within the meaning of 8 & 9 Vict. c. 109.

Penalty on owner or occupier of betting house.

3. Any person who being the owner or occupier of any house, office, room, or other place, or a person using the same, opens, keeps, or uses the same for the purposes herein-before mentioned, or either of them ;

and any person who being the owner or occupier of any house, room, office, or other place knowingly and wilfully permits the same to be opened, kept, or used by any other person for the purposes aforesaid, or either of them ;

and any person having the care or management of or in any manner assisting in conducting the business of any house, office, room, or place opened, kept, or used for the purposes aforesaid, or either of them,

shall, on summary conviction thereof before two justices be liable to pay such penalty, not exceeding £100, as shall be adjudged by such justices, and may be adjudged by such justices to pay such costs attending such conviction as to the said justices seem reasonable ; and on nonpayment of penalty and costs, or in the first instance if to the said justices it shall seem fit, may be committed with or without hard labour for not exceeding six calendar months.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Penalty on persons receiving money on condition of paying money on event of any bet.

4. Any person being the owner or occupier of any house, office, room, or place opened, kept, or used for the purposes aforesaid or either of them, or any person acting for or on behalf of any such owner or occupier, or any person having the care or management or in any manner assisting in conducting the business thereof, who receives, directly or indirectly, any money or valuable thing as a deposit on any bet on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race or any other race, or any fight, game, sport, or exercise, or as or for the consideration for any assurance, undertaking, promise, or agreement express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency ;

and any person giving any acknowledgment, note, security, or draft on the receipt of any money or valuable thing so paid or given as aforesaid purporting or intended

to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid,

shall, upon summary conviction thereof before two justices, pay such penalty, not exceeding £50, as shall be adjudged by such justices, and may be adjudged by such justices to pay such costs attending such conviction as to the said justices shall seem reasonable; and on nonpayment of penalty and costs, or in the first instance if to such justices it shall seem fit, may be committed with, or without hard labour, for not exceeding three calendar months.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

5. [Money or valuable thing so received may be recovered back.]

6. [Nothing in this act to extend to any person receiving or holding any stakes or deposit to be paid to the winner of any race or lawful sport, game, or exercise, or to the owner of any horse engaged in a race.]

This act not to extend to stakes due to winner of race, &c.

7. Any person exhibiting or publishing or causing to be exhibited or published any placard, handbill, card, writing, sign, or advertisement whereby it is made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in manner aforesaid, or for the purpose of exhibiting lists for betting, or with intent to induce any person to resort to such house, [&c.], for the purpose of making bets or wagers, in manner aforesaid, or any person who, on behalf of the owner or occupier of any such house, [&c.], or person using the same, invites other persons to resort thereto for the purpose of making bets or wagers in manner aforesaid, shall, upon summary conviction thereof before two justices, pay a sum not exceeding £30, and may be adjudged by such justices to pay such costs attending such conviction as to the said justices shall seem reasonable; and on nonpayment of penalty and costs, or in the first instance, if to such justices it seem fit, may be committed, with or without hard labour, for not exceeding two calendar months.

Penalty on persons exhibiting placards or advertising, &c. betting houses.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

8. [Penalties and costs may be levied by distress.]

9. [Application of penalties.]

10. [On neglect to prosecute any summons justices may authorize some other person to proceed.]

Sections 8, 9, and 10. are given above very briefly, as they are substantially, and almost verbatim, the same as sections 7, 8, and 9. of 17 & 18 Vict. c. 38., ante, p. 160.

Justices may authorize search of suspected houses.

11. It shall be lawful for any justice upon complaint made before him on oath that there is reason to suspect any house, office, room, or place to be kept or used as a betting house or office, contrary to this act, to give authority by special warrant under his hand, when in his discretion he thinks fit, to any constable or police officer, to enter, with such assistance as may be found necessary, into such house, office, room, or place, and, if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, search, and bring before a justice all such* persons found therein, and to seize all lists, cards, or other documents relating to racing or betting found in such house or premises; and any such warrant may be according to the form given in the first schedule to 8 & 9 Vict. c. 109.

* Sic.

The analogous provision in 8 & 9 Vict. c. 109. s. 3. as to justices is restricted to places not within the Metropolitan Police District.

Commissioner of Police may authorize superintendent of police to enter and search suspected houses.

12. If any superintendent belonging to the Metropolitan Police Force report in writing to the Commissioners of Police of the Metropolis that there are good grounds for believing and that he does believe that any house, office, room, or place within the Metropolitan Police District is kept or used as a betting house or office, contrary to this act, it shall be lawful for either of the said Commissioners by order in writing to authorize the superintendent to enter any such house, office, room, or place, with such constables as shall be directed by the Commissioner to accompany him, and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who shall be found therein, and to seize all lists, cards, or other documents relating to racing or betting found in such house or premises.

See 19 & 20 Vict. c. 2. s. 5., ante, p. 2.

Appeal.

13. [Appeal to quarter sessions.]

This is the same as s. 10. of 17 & 18 Vict. c. 38., ante, p. 160., except that this enactment requires notice of intention to appeal to be given at the time of conviction.

Informality, &c.

14. [No objection on matter of form; and certiorari taken away.]

15. [Distress not unlawful for want of form.]

16. [Tender of amends, &c.]

17. [Notice of action; limitation of actions.]

The four last preceding sections are identical with ss. 11, 12, 13, 14. of 17 & 18 Vict. c. 38., ante, p. 161.

LUNATICS.

Custody of insane Persons charged with Offences, and of insane Prisoners under Sentence, &c.

39 & 40 Geo. 3. c. 94. s. 4. If any person who appears to be insane endeavour to gain admittance to His Majesty's presence, by intrusion on any of His Majesty's palaces or places of residence or otherwise, so that there may be reason to apprehend that His Majesty's person may be endangered, it shall be lawful for the Privy Council, or one of the Principal Secretaries of State to cause such person to be brought before them or him; and if upon examination it appear that there is reason to apprehend such person to be insane, and that the person of His Majesty may be endangered by reason of the insanity of such person, the Privy Council or Secretary of State may order such person to be kept in safe custody in such place, and in such manner, as according to circumstances shall be ascertained; [provision for inquiry into sanity of such person, &c. under a commission to be issued by Lord Chancellor, who if such person be found so far insane that the person of His Majesty may be endangered, is to take order for the safe custody of such person, &c.]

Insane persons endeavouring to gain access to His Majesty may be brought before Privy Council or Secretary of State, who may order his being detained in safe custody.

1 & 2 Vict. c. 14. s. 2.....If any person be discovered and apprehended under circumstances that denote a derangement of mind, and a purpose of committing some crime for which if committed such person would be liable to be indicted, it shall and may be lawful for any two justices of the county, &c. where such person is so apprehended to call to their assistance a physician, surgeon, or apothecary, and if upon view and examination of the person so apprehended, or from other proof, the said justices be satisfied that such person is insane or a dangerous idiot, the said justices, if they so think fit, by an order under their hands and seals, directed to the constable or overseers of the parish, township, or place where such person is apprehended, shall cause the said person to be conveyed to and placed in the county lunatic asylum, provided there be one situated within or belonging to the county in which such person is apprehended, and if there be no such asylum, then to some

Provision for sending to a lunatic asylum, &c. persons apprehended under circumstances denoting derangement of mind and intention to commit a crime.

public hospital, or some house duly licensed for the reception of insane persons; [justices may inquire into settlement of such insane person, &c., and make order for payment of maintenance, &c.]: Provided always, that nothing herein shall extend to prevent any relation or friend from taking such insane person or dangerous idiot under their* own care and protection, if he enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices or the court of quarter sessions, or one of the judges of Her Majesty's courts in Westminster Hall: [Proviso allowing appeal to quarter sessions against order adjudging settlement.]

* Sic.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Provision as to
prisoners be-
coming insane.

3 & 4 Vict. c. 54. s. 1. [If any person while imprisoned in any prison or other place of confinement under any sentence of death, transportation, or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour, or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices, or under any other than civil process, appear to be insane, it shall be lawful for any two justices of the county, &c. where such person is imprisoned, to inquire, with the aid of two physicians or surgeons, as to the insanity of such person; and if it be duly certified by such justices and such physicians or surgeons that such person is insane, it shall be lawful for one of Her Majesty's Principal Secretaries of State, upon receipt of such certificate, to direct by warrant under his hand that such person be removed to such county lunatic asylum or other proper receptacle for insane persons as the said Secretary of State may judge proper and appoint; and every person so removed under this act or already removed or in custody under any former act relating to insane prisoners shall remain under confinement in such county asylum or other proper receptacle as aforesaid, or in any other county lunatic asylum or other proper receptacle to which such person may be removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it be duly certified to one of Her Majesty's Principal Secretaries of State by two physicians or surgeons that such person has become of sound mind,† whereupon the said Secretary of State is hereby authorized, if such person still remain subject to be continued in custody, to issue his warrant to the keeper or other person having the care of any such asylum or receptacle as aforesaid, directing that such person

† Extended to cases in which a person is certified to be harmless, by 16 & 17 Vict. c. 96. s. 38.

be removed back from thence to the prison or other place of confinement from whence he or she was taken, or, if the period of imprisonment or custody of such person has expired, that he or she be discharged.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

23 & 24 Vict. c. 75. s. 2. The Secretary of State by warrant may direct to be conveyed to and kept in any such asylum [*i.e.* an asylum for criminal lunatics provided under that act] any person for whose safe custody during Her pleasure Her Majesty is authorized to give order, or whom such Secretary of State might direct, to be removed to a lunatic asylum under any of the acts herein-before mentioned [*i.e.* 39 & 40 Geo. 3. c. 94., 3 & 4 Vict. c. 54., *ante*, 5 & 6 Vict. c. 29., and 6 & 7 Vict. c. 26. (the Pentonville and Millbank Prisons acts).] or under any other act of parliament, or any person sentenced or ordered to be kept in penal servitude, who may be shown to the satisfaction of the Secretary of State to be insane or to be unfit from imbecility of mind for penal discipline; and the Secretary of State may direct to be removed to and kept in such asylum any such persons as aforesaid who under any previous order of Her Majesty or warrant of the Secretary of State may have been placed and remain in any county lunatic asylum or other place of reception for lunatics, and every person directed by the Secretary of State to be conveyed or removed to and kept in an asylum under this act shall be conveyed to such asylum accordingly, and shall be kept therein until lawfully removed or discharged

Secretary of State may direct criminal lunatics to be confined in criminal lunatic asylum.

3. [Saving of authority of the Crown or Secretary of State to make other provision for custody of criminal lunatics.]

Lunatics wandering at large, or not under proper Care, or cruelly treated.

16 & 17 Vict. c. 97. s. 68. Every constable of any parish or place, and every relieving officer and overseer of any parish who has knowledge that any person wandering at large within such parish or place (whether or not such person be a pauper) is deemed to be a lunatic, shall immediately apprehend and take or cause such person to be apprehended and taken before a justice; and it shall also be lawful for any justice, upon its being made to appear to him by the information upon oath of any person whomsoever that any person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, by an order under the

Provision as to lunatics wandering at large;

hand and seal of such justice, to require any constable of the parish or place, or relieving officer or overseer of the parish where such person may be found, to apprehend him, and bring him before such justice or some other justice having jurisdiction where such person may be found ;

and as to persons (not paupers) deemed lunatic, who are not under proper care, or are cruelly treated.

and every constable of any parish or place, and every relieving officer and overseer of any parish who has knowledge that any person in such parish or place, not a pauper and not wandering at large as aforesaid, is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall, within three days after obtaining such knowledge, give information thereof upon oath to a justice, and in case it be made to appear to any justice upon such information, or upon the information upon oath of any person whomsoever, that any person within the limits of his jurisdiction, not a pauper and not wandering at large, is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, such justice shall either himself visit and examine such person and make inquiry into the matters so appearing upon such information, or by an order under his hand and seal direct and authorize some physician, surgeon, or apothecary to visit and examine such person and make such inquiry, and to report in writing to such justice his opinion thereupon and in case upon such personal visit, examination, and inquiry by such justice or upon the report of such physician, surgeon, or apothecary it appear to such justice that such person is a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, it shall be lawful for such justice, by an order under his hand and seal, to require any constable of the parish or place, or any relieving officer or overseer of the parish where such person is alleged to be, to bring him before any two justices of the same county or borough ;

and the justice or justices (as the case may be) before whom any such person as aforesaid in the respective cases aforesaid is brought under this enactment shall call to his or their assistance a physician, surgeon, or apothecary, and examine such person, and make such inquiry relative to such person as he or they deem necessary ; and if upon examination of such person, or other proof, such justice be satisfied that such person so brought before him is a lunatic and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, or

such two justices be satisfied that such person so brought before them is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, and if such physician, surgeon, or apothecary sign a certificate with respect to every such person so brought either before one justice or two justices, according to the form in the Schedule (F.) No. 3. to this act, it shall be lawful for the said justice or justices, by an order under his or their hand and seal or hands and seals, according to the form in the Schedule (F.) No. 1. to this act, to direct such person to be received into such asylum as herein-after mentioned, or where herein-after authorized in this behalf into some hospital registered or house licensed for the reception of lunatics, and the said constable, relieving officer, or overseer who may have brought such person before the said justice or justices, or any constable whom such justice or justices may require so to do, shall forthwith convey such person to such asylum, hospital, or house accordingly :

Provided always, that it shall be lawful for any justice upon such information on oath as aforesaid, or upon his own knowledge, and alone in the case of any such person as aforesaid wandering at large and deemed to be a lunatic, or with some other justice in any other of the cases aforesaid, to examine the person deemed to be a lunatic, at his own abode or elsewhere, and to proceed in all respects as if such person were brought before him or them as herein-before mentioned ;

provided also, that it shall be lawful for the said justice or justices to suspend the execution of any such order for removing any such person as aforesaid to any asylum, hospital, or house for such period not exceeding 14 days as he or they may deem meet, and in the meantime to give such directions or make such arrangements for the proper care and control of such person as he or they shall consider necessary ;

provided also, that if the physician, surgeon, or apothecary by whom such person is examined certify in writing that he is not in a fit state to be removed, the removal of such person shall be suspended until the same or some other physician, surgeon, or apothecary certify in writing that such person is fit to be removed ; and every such physician, surgeon, and apothecary is hereby required to give such last-mentioned certificate as soon as in his judgment it ought to be given ;

provided also, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from retaining or taking such lunatic under his own care, if such relation or friend satisfy the justice or justices before whom such lunatic is brought, or the visitors of the asylum in which such lunatic is or is intended to be placed, that such lunatic will be properly taken care of.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

As to payment
of expenses of
examination,
&c.

69. [Power to the justice or justices causing any person to be examined by a physician, &c. to make an order on guardians or overseers for payment of remuneration to such physician, &c., for such examination, and of all other expenses of such examination, and bringing such person before the justice or justices, and conveying him to an asylum, &c.]

Penalties on
medical officers,
relieving
officers, over-
seers, and con-
stables omitting
to give notice
as aforesaid,
&c.

70. If any medical officer of any parish or union omit for more than three days after obtaining knowledge of any pauper resident in such parish, or in any parish within his district, being or being deemed to be lunatic, and a proper person to be sent to an asylum, to give such notice thereof as is herein-before required,* or if any relieving officer of any parish, or any overseer of any parish of which there is no relieving officer, omit for more than three days after obtaining knowledge of any pauper resident in such parish, being deemed to be a lunatic, and a proper person to be sent to an asylum, to give notice thereof to a justice as herein-before required;* or if any constable, relieving officer, or overseer omit to apprehend and take before a justice, as herein-before required, any person wandering at large and deemed to be a lunatic, or omit for three days after obtaining knowledge that any person deemed to be a lunatic (not a pauper and not wandering at large) is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, to give information thereof to a justice as herein-before required, such medical officer, relieving officer, overseer, or constable, as the case may be, shall for every such offence forfeit any sum not exceeding £10.

See also 2 & 3 Vict. c. 47. s. 14., ante, p. 13.

Penalties on
relieving
officers, over-
seers, and con-
stables delaying
to execute
orders.

71. If any relieving officer, overseer, or constable by this act required to convey any person to any asylum, registered hospital, or licensed house in pursuance of any order under this act, refuse or wilfully neglect to execute such order with all reasonable expedition, he shall for every such offence forfeit any sum not exceeding £10.

See also 2 & 3 Vict. c. 47. s. 14., ante, p. 13.

* The words "herein-before required" have reference to s. 67. which it has not been deemed necessary to set out.

72. Every such order by a justice or justices as aforesaid, for the reception of a lunatic into an asylum may authorize his admission, not only into any lunatic asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital registered or house licensed for the reception of lunatics; but every lunatic shall under every such order be sent to an asylum of the county or borough in which the parish or place from which he is sent is situate, unless there be no such asylum, or there be a deficiency of room, or unless there be some special circumstances by reason whereof such lunatic cannot conveniently be taken to such asylum, which deficiency of room or special circumstances shall be stated in the order for the reception of such lunatic into any asylum other than such asylum as aforesaid, or into any registered hospital or licensed house; and no lunatic shall be sent to any registered hospital or house licensed for the reception of lunatics by virtue of such order except there be no such asylum, or no such asylum in which he can be received, or there be some special circumstances by reason whereof he cannot be taken thereto, which shall be stated in like manner as aforesaid.

Orders of justices, &c. may extend to authorize reception into hospitals or licensed houses, but lunatics to be always sent to asylum if circumstances permit.

88. Every person received into any asylum, registered hospital, or licensed house under such order as is required by this act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this act, and in case of escape may, by virtue of such order and certificate or certificates, be retaken at any time within 14 days after his escape by the superintendent or proprietor of such asylum, hospital, or house, or any officer or servant belonging thereto, or any other person authorized in writing in this behalf by such superintendent or proprietor, and conveyed to and received and detained in such asylum, hospital, or house.

Persons received into asylums, &c. may be detained until removal or discharge, and in case of escape may be retaken within 14 days.

A similar provision to the last is contained in 8 & 9 Vict. c. 100. s. 99. as to proprietors and superintendents of licensed houses or registered hospitals, and persons authorized to take charge of single patients, and the assistants and servants of such proprietors, superintendents, and persons. The last-mentioned act is amended by 16 & 17 Vict. c. 96. as to the orders and certificates upon which lunatics are to be received, but the provision referred to remains applicable, the two acts being read as one, see s. 37. of 16 & 17 Vict. c. 96.

Penalties to be recovered in manner provided by 11 & 12 Vict. c. 43.
Application of penalties.

127. All penalties and forfeitures imposed by this act shall and may be recovered summarily before two justices in manner provided by 11 & 12 Vict. c. 43 ; and such penalties and forfeitures, when recovered upon proceedings taken by the secretary of the commissioners [in lunacy], shall be paid to such secretary, and be applied and accounted for by him in like manner as money received for licences for the reception of lunatics granted by the said commissioners, and when recovered upon proceedings taken by the clerk to any committee of visitors of any asylum, shall be paid to the treasurer of such asylum, to be by him applied for the purposes of such asylum in such manner as such committee may think fit and direct, and in all other cases shall be paid to the treasurer of the county or borough for which the justices by whom the person convicted of such offence have acted in such conviction.

See 2 & 3 Vict. c. 71. ss. 14, 44, 45, 47., ante, pp. 43, 54-56.

Appeal.

128. [Appeal to quarter sessions.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

PUBLIC HOUSES, BEERHOUSES, SALE OF LIQUORS ON SUNDAYS, REFRESHMENT HOUSES AND SALE OF WINE.*

Public Houses.

9 GEO. 4. c. 61.

Annual licensing meetings.

1. [In divisions of counties, &c., liberty, division of every liberty, county of a city, county of a town, city, and town corporate,† general annual licensing meetings to be holden

* See 8 & 9 Vict. c. 109. ss. 12-14, *ante*, pp. 154-156.

There are, besides the acts in the text, other acts affecting public houses, &c. which it may be useful to mention.

Under 39 Geo. 3. c. 79. s. 21 and 57 Geo. 3. c. 19. s. 29., on evidence on oath that publications of a seditious or immoral nature are usually distributed for the purpose of being read at any house licensed for sale of ale, beer, wine, or spirituous liquors, or that an unlawful society or club, or any meeting for seditious purposes has been held in any such house, with consent of the person keeping it, two justices are empowered to adjudge the licence void.

Under other acts brewers and retailers of beer are prohibited, under penalties, from putting other articles or preparations than malt or hops in beer or having in their possession any such other articles intended to be used in beer. See 1 W. & M. c. 24. s. 17., 10 & 11 Will. 3. c. 21. s. 34., 9 Ann. c. 12. s. 24., 12 Ann. St. 1. c. 2. s. 32., 56 Geo. 3. c. 58. s. 2.; but as to the use of sugar, see 10 & 11 Vict. c. 5.

35 Geo. 3. c. 113. imposes penalties against selling beer, &c. without a licence.

See also 24 Geo. 2. c. 40. s. 12., 21 Geo. 3. c. 49., and 6 Geo. 4. c. 81. ss. 22, 23.

† See as to boroughs 24 & 25 Vict. c. 75. s. 4.]

by justices, such meetings to be holden, in Middlesex and Surrey, within the first 10 days of March, and in every other county between the 20th August and the 14th September inclusive.]

2. In every such division or place as aforesaid there shall be holden 21 days at the least before each such general annual licensing meeting a petty session of the justices acting for such county or place, the majority of whom then present shall, by a precept under their hands, appoint the day, hour, and place upon and in which such general annual licensing meeting for such division or place shall be holden, and shall direct such precept to the high constable of the division or place for which such meeting is to be holden, requiring him, within five days next ensuing that on which he shall have received such precept, to order the several petty constables or other peace officers within his constablewick to affix or cause to be affixed on the door of the church or chapel, and where there shall be no church or chapel on some other public and conspicuous place within their respective districts, a notice of the day, hour, and place at which such meeting is appointed to be holden, and to give to or to leave at the dwelling house of each and every justice acting for such division or place, and of each and every person keeping an inn, or who shall have given notice of his intention to keep an inn, and to apply for a licence to sell exciseable liquors by retail, to be drunk or consumed on the premises within their respective districts a copy of such notice.

Time and place of annual licensing meeting how to be appointed.

Notice of meeting to be given.

3. [Lawful for justices acting at general annual licensing meeting to continue same by adjournment;—adjourned meeting next after such meeting not to be holden within five days thereafter;—every adjournment to be holden in March in Middlesex and Surrey, and August or September in every other county.]

Adjourned meetings.

4. [Special sessions for transferring licences to be appointed at the annual licensing meeting.]

Special sessions for transfers.

See 5 & 6 Vict. c. 44. s. 1., post, p. 181.

5. Whenever the justices have ordered any adjournment of the general annual licensing meeting, or have appointed such special sessions as aforesaid, the day, hour, and place for holding every such adjourned meeting and every such special session shall be appointed by precept of the majority of the said justices, directed to the high constable, requiring notices, similar in form to those given at the general

Notice of adjournment of general annual licensing meeting and special sessions.

annual licensing meeting, to be affixed on the door of the church or chapel, or on some other public and conspicuous place, and to be served upon the same parties.

Disqualifica-
tion.

6. [What justices shall be disqualified from acting.]

County justices
may act, &c.

7. [When at meetings to be holden for liberties, &c. two justices acting in and for such liberty, &c., not disqualified, do not attend, the justices acting in and for the county or counties adjoining may act.]

Majority of
justices to
sign licences,
&c.

9. [Questions respecting licences to be determined and licences to be signed by majority of justices at the meeting.]

Notice of appli-
cation for a
licence to keep
a house as an
inn not pre-
viously kept as
such.

10. Every person intending to apply for a licence to sell exciseable liquor by retail, to be drunk or consumed in any house not theretofore kept as an inn, shall affix or cause to be affixed a notice on the door of such house, and on the door of the church or chapel of the parish or place in which such house is situate, and where there is no church or chapel on some other public and conspicuous place within such parish or place, on three several Sundays, between 1st January and the last day of February in Middlesex and Surrey, and elsewhere between the 1st June and the last day of July, at some time between 10 in the forenoon and four in the afternoon, and shall serve a copy of such notice upon one of the overseers of the poor, and upon one of the constables or other peace officers of the said parish or place in February, in Middlesex and Surrey, and elsewhere in July, prior to the general annual licensing meeting; and every such notice and the copies thereof shall be written in a fair and legible hand or printed, and shall be according to the form in the Schedule marked A., and signed by the party intending to make application, or his agent thereunto authorized, and shall set forth the situation of the house, and the christian and surname of the party applying, with the place of his residence, and his trade or calling, during the six months previous to serving such notice, and his intention to apply for a licence to sell exciseable liquor by retail, to be drunk or consumed in such house or premises.

Notice of appli-
cation to trans-
fer a licence.

11. Every person holding a licence under this act, or his heirs, executors, administrators, or assigns, being desirous to transfer such licence, and intending to apply at the special session then next ensuing for permission so to do, shall, five days at the least prior to such special session,

serve a notice of such his intention upon one of the overseers of the poor, and upon one of the constables or other peace officers of the parish or place in which the house kept by the person so holding such licence is situate; and every such notice shall be written in a fair and legible hand or printed, and shall be according to the form in the Schedule marked B., and signed by the party intending to make application or by his agent thereunto authorized, and shall set forth the christian and surname of the person to whom it is intended that such licence shall be transferred, together with the place of his residence, and his trade or calling, during the six months previous to serving such notice.

12. [Any person hindered from attending any licensing meeting, or adjournment, or special session by sickness may authorize another person to attend for him.]

Power to applicant to attend by proxy.

13. [Licence to be according to the form in the schedule marked C., and to be in force in Middlesex and Surrey from the 5th April, and elsewhere from 10th October, after the granting thereof, for one year.]

Form and duration of licence.

14. If any person licensed die or be by sickness or other infirmity rendered incapable of keeping an inn, or become bankrupt, or take the benefit of any act for the relief of insolvent debtors, or if any person licensed, his heirs, executors, administrators, or assigns, remove from or yield up possession of the house specified in such licence; or if the occupier of any such house being about to quit the same, have wilfully omitted or have neglected to apply at the general annual licensing meeting, or at any adjournment thereof, for a licence to continue to sell exciseable liquors by retail to be drunk or consumed in such house; or if any house being kept as an inn by any person duly licensed as aforesaid be or be about to be pulled down or occupied under the provisions of any act for the improvement of the highways, or for any other public purposes; or be by fire, tempest, or other unforeseen and unavoidable calamity rendered unfit for the reception of travellers and for the other purposes of an inn; it shall be lawful for the justices at a special session holden under this act for the division, to grant to the heirs, executors, or administrators of the person so dying, or to the assigns of such person becoming incapable, or to the assignee or assignees of such bankrupt or insolvent, or to any new tenant or occupier of any house having so become unoccupied, or to any person to whom such heirs, executors, administrators, or assigns, by sale or otherwise, have bonâ fide conveyed or

Provision for death, change of occupancy, or other contingency.

Duration of licence.	otherwise made over their interest in the occupation and keeping of such house, a licence to sell exciseable liquors or to grant to the person whose house has as aforesaid been or is about to be pulled down or has become unfit for the reception of travellers and who shall open and keep as an inn some other fit and convenient house, a licence to sell exciseable liquors by retail to be drunk or consumed therein: Provided always, that every such licence shall continue in force only from the day on which it is granted until 5th April or 10th October next, as the case may be: Provided also, that every person intending to apply in any of the above-mentioned cases at any special session for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house or premises in which exciseable liquors have not been sold by retail, to be drunk or consumed on the premises, by virtue of a licence granted at the general annual licensing meeting next before such special session, shall, on some one Sunday within the six weeks next before such special session, at some time between 10 in the forenoon and four in the afternoon, affix [&c., as in s. 10.] such and the like notice as herein-before directed to be affixed by every person intending to apply at the general annual licensing meeting for a licence to sell exciseable liquors by retail, to be drunk or consumed in a house not theretofore kept as an inn, and shall in like manner serve copies of the said notice on one of the overseers of the poor and on one of the constables or other peace officers of such parish or place.
Notices required.	
Fees for licences.	15. [Lawful for clerk of the justices at general annual licensing meeting, and at any special session, to demand from every person to whom a licence is granted the sums following, and no more; viz., for the petty constable or other peace officer for serving notices and for all other services hereby required of such petty constable or peace officer 1s., for the clerk of the justices for the licence 5s., and for preparing the precepts to the high constable and notices to be delivered by the petty constable 1s. 6d.; penalty on clerk for taking larger fees, £5.]
Penalty.	
Who incapable of holding a licence.	16. [No sheriff's officer or officer executing the legal process of a court of justice in any county or place, capable of receiving or using a licence, and licence granted or transferred to such officer, void.]
Excise licence.	17. [No excise licence to be granted, except to a person licensed under this act.]

18. [Every person who shall sell or for valuable consideration otherwise dispose of any exciseable liquor by retail to be consumed in his house or premises, or permit or suffer any exciseable liquor to be sold or otherwise disposed of for valuable consideration by retail to be consumed in his house or premises without being duly licensed so to do ; and every person duly licensed who shall sell, or for valuable consideration otherwise dispose of, or permit to be sold or otherwise disposed of for valuable consideration, any exciseable liquor by retail to be consumed in his house or premises, not being the house or premises specified in such licence, shall for every such offence on conviction before one justice forfeit not exceeding £20, nor less than £5, with costs : Provided always, that no penalty for such sale, &c. without licence shall be incurred by heirs, executors, administrators, or assigns of any person licensed who dies, becomes bankrupt, or takes the benefit of any act for the relief of insolvent debtors, before the expiration of his licence, so as such sale, &c. be made in the house or premises specified in such licence, and take place prior to the special session next ensuing, unless such special session be holden within 14 days next after the death, bankruptcy, or insolvency of the said person, and in any such case to the special session holden next after such special session aforesaid.]

Penalty for selling exciseable liquors by retail without a licence.

Proviso in case of death.

19. Every person licensed to sell exciseable liquors by retail, to be consumed in his house or premises, shall, if required, sell or otherwise dispose of all such liquors by retail therein (except in quantities less than a half pint) by the gallon, quart, pint, or half pint measure, sized according to the standard, and shall also, if required by any guest or customer purchasing such liquor, retail the same in a vessel sized according to such standard ; and in default thereof, he shall for every such offence forfeit the illegal measure, and pay not exceeding 40s., with the costs, to be recovered within 30 days before any one justice, and such penalty shall be over and above all penalties to which the offender may be liable under any other act.

Licensed persons to use standard measures.

Penalty.

20. [Any two justices where any riot or tumult happens, or is expected, may order any public house to be closed at any time ; any person disobeying to be deemed to have not maintained good order and rule therein.]

Power to close houses in case of riot, &c.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

21. [Every person licensed, who is convicted before two justices of any offence against the tenor of his licence, unless proof be adduced that such person had been theretofore

Penalties for offences against the tenor of licence.

- convicted before two justices within three years next preceding of some offence against the tenor of licence, to be adjudged guilty of a first offence against the provisions of this act relative to the maintenance of good order and rule, and to pay not exceeding £5, with costs; if proof be adduced that such person had been previously convicted before two justices within such three years of one offence only against the tenor of licence such person to be adjudged
- First offence.** guilty of a second offence against such provisions, and to pay not exceeding £10, with costs; if proof be adduced that such person had been previously convicted before two justices within such three years, of two separate offences against the tenor of licences justices to adjourn the further consideration of the charge to the next special session, or to the general annual licensing meeting if it take place before such special session is holden; justices to summon the person charged to appear at such session or meeting to answer the charge and bind over the prosecutor and witnesses to appear, &c.; and if proof be adduced at such session or meeting that such person is guilty of the offence with which he is charged, such person to be adjudged
- Second offence.** guilty of a third offence against the said provisions, and to pay not exceeding £50, with costs: Provided always, that before the hearing of last-mentioned charge justices assembled at such session or meeting may, in their discretion, and shall at request of the party charged, adjourn the hearing to the general or quarter session; party making request to enter into recognizance with sureties to appear, &c.; and justices to bind over prosecutor and witnesses; lawful for general or quarter session to direct a jury then and there impannelled to be sworn to inquire of the offence charged, and upon verdict of "guilty" to adjudge such person to be guilty of a third offence against the said provisions, such verdict and adjudication to be final; and to punish offender by fine, not exceeding £100, or to adjudge his licence to be forfeited and void, or to punish such offender by such fine and to adjudge such licence to be forfeited, &c., and if licence adjudged forfeited, &c. same thenceforth to be void accordingly; and every excise licence for selling any exciseable liquors by retail, then held by or on behalf of such offender, also to be void; and if licence of offender so adjudged void, offender, after such adjudication, to be deemed incapable of selling exciseable liquors by retail in any inn kept by him for three years from the time of adjudication; and any licence granted to such person during such term, void: Provided always, that the Court may, upon sufficient cause shown, adjourn the hearing of
- Third offence.**

such charge to the then next general or quarter session, when same to be finally determined.]

See note on form of licence, post, p. 179 ; see also 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

22. In every case in which the justices assembled at any special session or general annual licensing meeting direct that the charge against any person licensed under this act shall be adjourned to the general or quarter session, it shall be lawful for such justices, if no other fit and proper person appear to prosecute such charge and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that the constable or other peace officer of the parish or place in which is situate the house kept by the person so charged shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind such constable or officer in a sufficient recognizance so to do, and it shall be lawful for the justices before whom such charge is heard to order the treasurer of the county to pay to such constable or officer, and to the witness or witnesses on his behalf, such sum or sums as to the court shall appear sufficient to reimburse such constable or officer, and witness or witnesses respectively, the expenses he or they shall have been severally put to in and about such prosecution.....

Prosecutions in certain cases to be carried on by petty constables.

Expenses.

23. [Penalty on witnesses not attending.]

Witnesses.

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

24. [Penalties on justices how to be recovered and applied.]

As to penalties on justices.

25. [Other penalties may be levied by distress; if offender has not sufficient goods whereon to levy, justice may commit him; scale of imprisonment; imprisonment to cease on payment.]

Other penalties how enforced

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

26. [Justice before whom any penalty recovered may award not exceeding one moiety to prosecutor and remainder to the treasurer of the county, &c.]

Application of such penalties.

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

27. [Persons thinking themselves aggrieved by any act of any justice done in or concerning the execution of this act may appeal to the next general or quarter sessions, &c.; judgment of such court final.]

Appeal.

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

- Costs.** 29. [Court in case of notice of appeal to adjudge costs in certain cases.]
- Actions.** 30. [Action for matters done in execution of act to be commenced within three calendar months ; general issue.]
- Convictions to be on oath.** 31. [Every conviction to be on the oath or oaths of one or more witness or witnesses.]
- Form of conviction.** 32. [Form of conviction.]
See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.
- Return of conviction; evidence.** 33. [Convictions to be returned to quarter sessions and filed of record ; certificate of clerk of the peace, which he is to grant upon payment of 1s., to be evidence of conviction.]
- Informality, &c.** 34. [No conviction, &c. to be quashed for want of form, or removed by certiorari, &c.]
See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.
- Saving for two Universities, vintners company, and sale of beer at fairs.** 36. [Act not to affect the Universities of Oxford and Cambridge, or the company of vintners of London, "but "not to extend to those freemen of the said company of "vintners who have obtained the same by redemption "only," nor to alter time for granting licences in the city of London, nor to prohibit persons from selling beer in booths, &c., at fairs, in like manner as authorized before passing of act.]
But see, as to vintners, 2 & 3 Vict. c. 47. s. 41., ante, p. 21.
- Interpretation, "exciseable liquor."** 37. ["Exciseable liquor" to include "ale, beer, or "other fermented malt liquor, sweets, cider, perry, wine, or "other spirituous liquor which now is or hereafter may be "charged with duty either by customs or excise."].....*

SCHEDULE C.

Form of Licence.

At the general annual licensing meeting [or an adjournment of the general annual licensing meeting, or at a special petty session] of His Majesty's Justices of the Peace acting for the division [or liberty, &c., as the case may be], of _____ in the county of _____ holden at _____ on the _____ day of _____ in the year one thousand eight hundred and _____, for the purpose of granting licences to persons keeping inns, alehouses, and victualling houses to sell exciseable liquors by retail to be drunk or con-

* Virtually repealed, as to sweets, by repeal of excise duty by 4 & 5 Will. 4. c. 77., see *Reg. v. Lancashire*, 7 Ellis and Blackburn's Rep., 839.

sumed on their premises, we, being of His Majesty's Justices of the Peace acting for the said county [or liberty, &c., &c., as the case may be], and being the majority of those assembled at the said session, do hereby authorize and empower A.L., now dwelling at in the parish of and keeping [or intending to keep] an inn, alehouse, or victualling house at the sign of the in the of in the division and county aforesaid, to sell by retail therein, and in the premises thereunto belonging, all such exciseable liquors as the said A.L. shall be licensed and empowered to sell under the authority and permission of any excise licence, and to permit all such liquors to be drunk or consumed in his said house or in the premises thereunto belonging, provided that he [or she] do not fraudulently dilute or adulterate the same, or sell the same knowing them to have been fraudulently diluted or adulterated; and do not use in selling thereof any weights or measures that are not of the legal standard; and do not wilfully or knowingly permit drunkenness or other disorderly conduct in his [or her] house or premises; and do not knowingly suffer any unlawful games or any gaming whatsoever therein;* and do not knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein; and do not keep open his [or her] house except for the reception of travellers, nor permit or suffer any beer or other exciseable liquor to be conveyed from or out of his [or her] premises during the usual hours of the morning and afternoon† divine service in the church or chapel of the parish or place in which his [or her] house is situated on Sundays, Christmas Day, or Good Friday, but do maintain good order and rule therein; and this licence shall continue in force from the day of next until the day of then next ensuing and no longer: provided that the said A.L. shall not in the meantime become a sheriff's officer, or officer executing the process of any court of justice, in either of which cases this licence shall be void.

Given under our hands and seals on the day and at the place first above written.

5 & 6 VICT. c. 44.

1. [Transfer or grant of licences may be made by justices at petty sessions; the authority thereunder to continue until the next ensuing special sessions; but where the licensed house is within one of the metropolitan police court divisions (except Southwark), such power to be exercised only by a police magistrate.] Transfer or grant of licences at petty sessions.

* This extends to gaming under any circumstances, thus where an innkeeper on the occasion in question, in his private capacity, had a few friends to spend the evening with him, and they were playing cards for very small stakes, it was held, Cockburn C. J., hesitante, that this was an offence against the licence. *Patten v. Rhymer*. 8 Weekly Rep., 496.

† 9 Geo. 4. c. 61. is virtually repealed, as to sale during afternoon divine service, by 18 & 19 Vict. c. 118., which renders it unlawful to sell beer, wine, spirits, or other fermented or distilled liquor between 3 and 5 or after 11 in the afternoon on Sunday, Christmas Day, or Good Friday. See Reg. v. Whiteley, 3 Hurlstone & Norman's Rep. 143. And see 2 & 3 Vict. c. 47. s. 42., ante, p. 21, and 11 & 12 Vict. c. 49., post, p. 201, as to the time before which beer, &c. may not be sold on Sunday, &c.

2, 3. [How such transfer, &c. may be made when licence lost.]

4. [Justices disqualified by 9 Geo. 4. c. 61. not to act at petty sessions.]

5. [Restriction on sale of wine, &c. on boats, &c. within the metropolitan police district on Sundays, &c.]

This enactment is set out, post, p. 203.

6. [Saving for Universities of Oxford and Cambridge.]

Beerhouses.

1 WILL. 4. c. 64.

All persons
licensed under
this act may sell
beer by retail.

1. [Any person, who obtains a licence for that purpose under this act may sell beer, ale, and porter by retail in England, in any house or premises specified in such licence.]

See 4 & 5 Will. 4. c. 85. s. 1., post, p. 191.

Parties desirous
of retailing
beer shall take
out a licence.

2. [Any person, being a householder, (except persons herein-after specially excepted,) who is desirous of selling beer, &c., by retail under this act, may apply for and obtain an excise licence for that purpose; particulars to be stated in application; in London licences to be granted by the commissioners of excise, &c., elsewhere in England by the collectors and supervisors of excise, within 10 days after the application, and upon execution by the party and his surety or sureties of the bond herein-after mentioned; licence duty; licence to be dated on the day when granted, and expire at the end of 12 calendar months;* licence to be according to the form in schedule, and to be duly registered in the proper department of the excise: No such licence to authorize or entitle the party licensed to receive any licence to sell or retail wine or spirits; and no such licence to be granted to a sheriff's officer, or officer executing the legal process of any court of justice, or to any person not being a householder assessed to the poor rates in the parish or place in which he is licensed; and any licence granted to any such person to be void; and a list or register of every licence so granted, specifying the name and place of abode of every person licensed, and of his sureties respectively, and the name and description of the house mentioned in such licence, to be kept at the excise office with respect to all licences granted by the commissioners of excise or any person

* 24 & 25 Vict. c. 91. s. 14. enacts that all such licences shall expire on 10th October.

authorized by them, and at the office or dwelling house of every collector and supervisor of excise in their and his respective collections and districts; and such list or register at all times to be produced to and be open to the inspection of any magistrate of the county or place where such licence is granted and where such house is situate; and a copy of such list or register once in every calendar month to be transmitted by every such collector or supervisor to the clerk of the magistrates for the district in which such licence is granted; and any copy of or extract from such list or register, at any time required by the clerk to the magistrates, shall be given to him by such collector or supervisor.]

See 4 & 5 Will. 4. c. 85. ss. 2, 3, 13, 15., post, pp. 191, 193, and 3 & 4 Vict. c. 61. ss. 1-6., post, pp. 196, 197.

4. [Person applying for licence before, or at the time of receiving same to enter into a bond to commissioners of excise with one sufficient surety in the penalty of £20, or two sufficient sureties in the penalty of £10 each, conditioned for the payment of any penalty incurred for any offence against this act by the party to whom such licence is granted, such bond not to be subject to stamp duty.]

Party requiring licence shall enter into a bond, with sureties, for payment of penalties.

5. [No person licensed to sell beer, or not a rated householder in the parish, to be competent to be a surety.]

Who may not be surety.

6. Every person licensed to sell beer, ale, and porter by retail under this act shall cause to be painted in letters three inches at least in length, in white upon a black ground, or in black upon a white ground, publicly visible and legible, upon a board to be placed over the door of the house or premises in which such person is licensed to sell beer by retail, the christian and surname of the persons mentioned in such licence, at full length, with the words "licensed to sell beer by retail;" and every such person shall preserve and keep up such name and words so painted as aforesaid during all the time that he continues so licensed, upon pain that every person in any respect making default shall forfeit for every such offence £10.

Persons licensed to retail beer to put up descriptive boards.

Penalty.

See 4 & 5 Will. 4. c. 85. s. 18., post, p. 194.

7. No person shall sell any beer by retail under this act after the expiration of any licence, nor in any house or place not specified in any licence; provided always, that it shall be lawful for any person so licensed to take out a fresh retail licence for the selling beer by retail before the

No person to sell beer after expiration of his licence. Licence may be renewed yearly.

Penalty on
selling without
licence, &c.,
£20.

expiration of any former retail licence, and so from year to year; and if any person, not duly licensed to sell beer as the keeper of a common inn, alehouse, or victualling house, sell any beer by retail without having an excise retail licence in force authorizing such person so to do, or after the expiration of any such licence, or without renewing such licence in manner aforesaid, or in any house or place not specified in such licence, or if any such person so licensed deal in or retail any wine or spirits, every such person so offending shall for every such offence forfeit £20.

See 4 & 5 Will. 4. c. 85. ss. 16, 17, 20., post, 193, 194, 3 & 4 Vict. c. 61. s. 13., post, p. 199, and 24 & 25 Vict. c. 91. ss. 10, 11., post, p. 204, note †

Recovery and
application of
such penalty.

8. [Such penalty may be recovered as other excise penalties, and one moiety to go to the Crown and the other to the informer.]

But see 2 & 3 Vict. c. 71. ss. 34, 47., ante, pp. 50, 56.

Excise acts
applied.

9. Powers of excise acts (7 & 8 Geo. 4. c. 53., &c.), extended to this act, except where repugnant thereto.]

Proviso for
partners.
Licence, to
what premises
to extend.

10. [Persons in partnership, and in one house or premises, not obliged to take out more than one licence; no one licence to authorize selling beer, &c., in any house or place other than the house or place mentioned in such licence.]

Houses to be
closed by order
of justices in
cases of riot,
&c.

11. [Any justice where any riot or tumult happens, or two or more justices where any riot or tumult is expected to take place, may order every person licensed under this act to close his house at any time; every person disobeying to be deemed to have not maintained good order and rule therein, and to be guilty of an offence against the tenor of his licence.]

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Standard mea-
sures to be
used.

12. Every person under this act licensed to sell beer by retail shall sell or otherwise dispose of all such beer by retail (except in quantities of less than a half pint), by the gallon, quart, pint, or half-pint measure, sized according to the standard, and shall also retail the same in a vessel sized according to such standard; and in default thereof he shall for every such offence forfeit the illegal measure, and pay a sum not exceeding 40s., together with the costs of the conviction, to be recovered within 30 days next after that on which such offence was committed, before two justices; and such penalty shall be over and above all penalties to which the offender may be liable under any other act:

See 2 & 3 Vict. c. 71. s. 14, ante, p. 43.

Penalty.

13. Every seller of beer, [&c.]; by retail, having a licence under this act, who permits any person to be guilty of drunkenness or disorderly conduct in the house or premises mentioned in such licence, shall for every such offence forfeit the respective sums following ;

Penalty on retailers permitting drunkenness, &c. in their houses.

and every person who in any way transgresses or neglects, or is a party in transgressing or neglecting the conditions and provisions specified in such licence, or allows such conditions or provisions to be in any way transgressed or neglected, in the house or premises so licensed, shall be deemed guilty of disorderly conduct ;

and every person so licensed who permits any such disorderly conduct shall for the first offence forfeit such sum not less than 40s. nor more than £5, as the justices before whom such retailer is convicted of such offence adjudge ; and for the second such offence any sum not less than £5 nor more than £10 ; and for the third such offence any sum not less than £20 nor more than £50 ; and it shall be lawful for the justices before whom any such conviction for such third offence takes place to adjudge, if they so think fit, that such offender be disqualified from selling beer by retail for the space of two years next ensuing such conviction, and also (if they so think fit) to adjudge that no beer be sold by retail by any person in the house or premises mentioned in the licence of such offender ;

First offence.

Second offence.

Third offence.

and if any person so licensed as aforesaid knowingly sell any beer, ale, or porter made otherwise than from malt and hops, or mix or cause to be mixed any drugs or other pernicious ingredients with any beer sold in his house or premises, or fraudulently dilute or in any way adulterate any such beer,* such offender shall for the first offence forfeit any sum not less than £10 nor more than £20, as the justices before whom such offender is convicted adjudge ; and for the second such offence such offender shall be adjudged to be disqualified from selling beer, ale, or porter by retail for the term of two years, or to forfeit any sum of money not less than £20 nor more than £50, at the discretion of the justices before whom such offender is adjudged guilty of such second offence ;

Penalty on mixing drugs in beer, or adulterating beer.

First offence.

Second offence.

and if any offender convicted of such offence as last aforesaid during such term of two years sell any beer, ale, or porter by retail, either in the house and premises mentioned in the licence of such offender or in any other place,

Penalty on selling after adjudication of disqualification.

* A keeper of a beerhouse is liable to the penalties imposed by 56 Geo. 3. c. 58. s. 2. for having in his possession any of the articles therein specified, or any other article or preparation to be used as a substitute for malt or hops. Attorney General v. Lockwood, 9 Meeson and Welsby's Rep., 378.

he shall forfeit any sum not less than £25 nor more than £50, and shall be subject to a like penalty at any and every house or place where he commits such offence ;

and if any person at any time during any term in which it is not lawful for beer to be sold by retail on the premises of any offender sell any beer by retail on such premises, knowing that it was not lawful to be sold, such offender shall forfeit any sum not less than £10 nor more than £20, as the convicting justices adjudge.

14. [Houses not to be open before four in the morning or after 10 in the evening, or on Sundays between 10 and one, or three and five.]

Repealed by 3 & 4 Vict. c. 61. s. 14., post, p. 199.

Penalties recoverable before two justices in petty sessions, within three months after offence committed.

15. All penalties under this act, except the penalty for selling beer by a person not duly licensed, shall and may be recovered upon the information of any person whomsoever before two justices acting in petty sessions, and shall be proceeded for within three calendar months after the commission of the offence ; and every person licensed under this act who is convicted before two justices so acting in and for the division or place in which is situate the house kept or theretofore kept by such person, of any offence against the tenor of his licence, or of any offence for which any penalty is imposed by this act, shall, unless proof be adduced to the satisfaction of such justices that such person had been theretofore convicted before two justices within 12 calendar months next preceding of some offence against the tenor of his licence or against this act, be adjudged guilty of a first offence against this act, and to pay any penalty by this act imposed for such offence, or if no specific penalty be imposed for such offence then any sum not exceeding £5, together with costs ; and if proof be adduced to the satisfaction of such justices that such person had been previously convicted before two justices within 12 calendar months next preceding of one such offence only such person shall be adjudged by such justices guilty of a second offence against this act, and to pay any penalty by this act imposed for such offence, or if no specific penalty be so imposed, then any sum not exceeding £10, together with costs ; and if proof be adduced to the satisfaction of such justices that such person had been previously convicted before two justices within 18 calendar months next preceding of two such separate offences, and if proof be adduced to the satisfaction of the justices that such person so charged is guilty of the offence charged, such person

shall be adjudged guilty of a third offence against this act, and to pay any penalty imposed by this act in respect of such offence, or if no such specific penalty be imposed, then to pay the sum of £50, together with costs.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

16. The party convicted of any such third offence may appeal to the general or quarter sessions next ensuing, unless such sessions be held within 12 days next after such conviction, and in that case to the then next subsequent sessions; and in such case the party convicted shall before such justices so convicting forthwith enter into a recognizance, with two sufficient sureties, personally to appear at the said general or quarter sessions, and to abide the judgment of the court thereupon, and to pay such costs as shall be awarded, which recognizances such justices are hereby authorized to require; or, in failure of the party convicted entering into such recognizance, such conviction shall remain good and valid; [justices to bind over the prosecutor and witnesses]; and it shall be lawful for the said court of general or quarter sessions to adjudge such person guilty of any such third offence against this act, as the case may be, and such adjudication shall be final; and it shall be lawful for such court of general or quarter session to punish such offender by fine not exceeding £100, together with costs of appeal, or to adjudge the licence granted to and held by or on behalf of such offender to be forfeited and void, or to adjudge that no beer be sold by retail in the house or premises mentioned in the licence of such offender for two years from such adjudication, or to punish such offender by such fine as aforesaid, and to adjudge such premises to be disqualified for the sale of beer as aforesaid, and such licence to be forfeited and void; and if such licence be adjudged to be forfeited and void, it shall thenceforth be void accordingly; and whenever in such case or in any other case the licence of such offender is adjudged to be void, such offender shall from and after such adjudication be deemed incapable of selling beer, ale, or porter, by retail, in any house kept by him, for two years, to be computed from such adjudication; and any licence granted to such person during such term shall be void.

Appeal to the
quarter ses-
sions.

17. [Court to adjudge costs of appeal in certain cases.]

Costs.

18. In every case in which any appeal is made, by any person convicted of any offence under this act, to the general or quarter session, it shall be lawful for the con-

Proceedings at
the session in
certain cases to
be carried on by

the petty constable.

victing justices, if no other fit and proper person appear to prosecute such charge and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that the constable or other peace officer of the parish or place in which is situate the house kept by the person charged shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind such constable or officer in a sufficient recognizance so to do; and it shall be lawful for the justices before whom such offender has been convicted to order the treasurer of the county or place to pay to such constable or officer, and to the witness or witnesses on his behalf, such sum or sums as to the court shall appear to be sufficient to reimburse such constable or officer, and witness or witnesses respectively, the expenses that he or they shall have been severally put to in and about such prosecution.....

Expenses of prosecution to be charged on

Proceedings against sureties.

19. [In default of payment of penalties summary proceedings may be had against the sureties.]

Witnesses.

20. [Penalty on witnesses not attending, not exceeding £10.]

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

Penalties how enforced.

21. [Penalties may be levied by distress; if offender has not sufficient goods whereon to levy, justices may commit him; scale of imprisonment; imprisonment to cease on payment.]

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

Application of penalties.

22. Any justices before whom any penalty is recovered under this act shall award, if they think fit, any portion, not exceeding one moiety thereof, to the use of the prosecutor; and the remainder, or in case no part of such penalty be awarded to the prosecutor, then the whole of such penalty shall be awarded and paid to the treasurer of the county, to be applied in aid of the county rates.

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

County justices may act, &c.

23. [When at any session for any liberty, &c. two justices acting in and for such liberty, &c. do not attend, the justices acting in and for the county or counties adjoining may act.]

24. [*This concerns the cinque ports only.*]

25. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

26. [Convictions to be returned to the quarter sessions and filed of record; and certificate of clerk of the peace, which he is to give on payment of 1s., to be evidence of conviction.] Return of convictions; evidence.

27. [Writ of certiorari not to be allowed, and warrant of commitment not to be void for defect of form.] Informality, &c.

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

28. [Actions for matters done in execution of act to be commenced within three calendar months.; general issue.] Actions.

29. [Act not to affect the Universities of Oxford and Cambridge, or the company of vintners of London, "but not" to extend to those freemen of the said company of vintners "who have obtained the same by redemption only;" nor in any way to affect any licence to the keeper of any inn, alehouse, or victualling house, unless in so far as relates to the sale of beer by retail; nor to prohibit persons from selling beer in booths, &c. at fairs, in like manner as authorized before passing of act.]* Saving for the two Universities, the vintners company, publicans, and sale of beer at fairs.

But see as to free vintners 2 & 3 Vict. c. 47. s. 41., ante, p. 21.

30. Any person desirous of selling cyder and perry by retail may apply for and obtain an excise licence for that purpose, under the regulations (except as herein-after otherwise provided) in this act contained with respect to persons desirous of selling beer, ale, and porter by retail, and of being licensed for that purpose; and all the provisions in this act relating to the sale of beer by retail, and to licences for selling the same, and to the sureties for the parties licensed, and to the conduct of the parties licensed, and to all other matters whatever respecting the selling of beer by retail, and the retailers thereof and the licences for the same, and the houses where the same are sold, and the penalties against the parties licenced, shall be applicable to the sale of cyder and perry by retail, and to licenses for the same, and to the sellers of cyder and perry by retail, as if cyder and perry, and the retailers thereof, were expressly mentioned throughout this act: [Duty on licence for cyder or perry; such licence to be according to the form in Licences to retail cyder and perry may be granted under the regulations of this act on payment of £1 1s. duty. Provisions and penalties of this act with respect to the sale of beer to apply to the sale of cyder and perry.

* 1 Will. 4. c. 51. s. 22. provides that nothing in 1 Will. 4. c. 64. shall extend to interfere with the licences required to be taken out by brewers and dealers in beer and persons keeping common inns, &c., and that persons selling beer of ale in quantities of not less than four and a half gallons or two dozen reputed quarts, not to be consumed on the premises, shall be deemed dealers in beer.

Beer licences
to extend to
cyder and
perry.

schedule : Any person licensed to sell beer by retail may sell cyder and perry by retail without a separate licence.]

31. [Covenants against houses, &c. being used as public houses to extend to persons and houses licensed under this act.]

32. [Interpretation of act.]

SCHEDULE.

Form of Licence.

We, the undersigned, being _____ of the Commissioners of the Excise, [or I, the undersigned, being a person authorized and employed by the Commissioners of Excise to grant licences for selling beer [or cyder and perry, *as the case may require,*] by retail, or being a collector or supervisor of excise for the collection or district of _____] do hereby authorize and empower *A.L.*, now being a householder, and dwelling at _____ in the parish of _____ within the limits of the chief office of excise [or within the limits of the said collection or district] to sell beer, ale, and porter [or cyder and perry] by retail in the dwelling house of the said *A.L.*, and in the premises thereunto belonging, the said *A.L.* having duly entered into a bond with *D.S.* of _____ and *E.S.* of _____ as his surety [or sureties], pursuant to the act in such case made : provided, and upon condition, that he or she does not sell any beer, ale, or porter made otherwise than from malt and hops [*omit these words in licences to retail cyder and perry*], nor mix or cause to be mixed any drugs or other pernicious ingredients in any beer, ale, or porter [or in any cyder or perry] ; nor fraudulently dilute, deteriorate, or adulterate any beer, ale, or porter [or any cyder or perry], nor sell any beer, ale, or porter [or any cider or perry] knowing the same to have been fraudulently diluted, deteriorated, or adulterated ; nor use, in selling any beer, ale, or porter [or any cyder or perry], any measures which are not of the legal standard ; nor wilfully or knowingly permit any drunkenness or any violent or quarrelsome or other disorderly conduct in his [or her] house or premises, nor knowingly suffer any unlawful games or any gaming whatsoever therein ; nor knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein ; nor permit or suffer any beer, ale, or porter [or any cyder or perry] to be drank or consumed in or upon or to be conveyed from or out of his [or her] premises between the hours of ten of the clock in the forenoon and one of the clock in the afternoon, nor between the hours of three and five of the clock in the afternoon, on Sundays, Christmas Day, and Good Friday, or any day appointed for a public fast or thanksgiving, nor at any time before the hour of four of the clock in the morning, or after the hour of ten of the clock in the evening, of any day ; but do maintain good order and rule therein ; and all provisions for billeting officers and soldiers in victualling houses, contained in any act for punishing mutiny and desertion and for the better payment of the army and their quarters, are to extend and apply to the house and premises mentioned in this licence : and this licence shall continue in force from the _____ day of _____ next until the _____ day of _____ then next ensuing, and no longer ; provided and upon condition, that the said *A.L.* shall not in the meantime become a Sheriff's Officer, or officer for executing the process of any court of justice, nor shall in the meantime cease to be a householder ; and this licence shall cease and determine and shall become void in case any of

the conditions or regulations contained therein shall be transgressed, or shall not be observed by the said A.L. Given under our hands and seals [or my hand and seal], this day of one thousand eight hundred and at

But as to billeting see 4 & 5 Will. 4. c. 85. s. 5., infra.

4 & 5 WILL. 4. c. 85.

1. [Licences may be granted under 1 Will. 4. c. 64. for sale of beer or cider, but not to authorize sale of beer, &c. to be drunk on the premises unless granted upon certificate hereinafter required.]

Sale of beer to be drunk on the premises.

See 3 & 4 Vict. c. 61. ss. 1-6., post, pp. 196, 197.

2. [Every person applying for a licence to sell beer to be drunk on the premises to deposit with commissioners of excise a certificate of good character, signed by six inhabitants of the parish, &c., rated to the poor at not less than £6, certified to be such by one of the overseers; certificate and licence to be in the form in schedule; if not 10 rated inhabitants in the place, certificate of the majority sufficient.]

Certificate as to character required before grant of licence, &c.

3. [Penalty on overseers refusing to certify as required.]

4. If any person licensed to sell beer or cider not to be consumed upon the premises, with intent to evade the provisions of this act, take or carry, or authorize or employ or permit or suffer any person to take or carry, any beer or cider out of or from the house or premises of such licensed person for the purpose of being sold on his account, or for his benefit or profit drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatever belonging to such licensed person, or hired, used, or occupied by him, such beer or cider shall be deemed to have been drunk or consumed upon the premises, and the person selling the same shall be subject to the like forfeitures and penalties as if such beer or cider had been actually drunk or consumed in any house or upon any premises licensed only for the sale thereof as aforesaid.

Permitting drinking beer in a neighbouring house or in any shed, &c., with intent to evade the provisions of the act, to be deemed drinking on the premises.

5. [The provisions in respect of billeting soldiers in victualling houses in any act for punishing mutiny, &c. shall extend only to such persons licensed under this act and 1 Will. 4. c. 64. as are licensed to sell beer or cider to be consumed on the premises.]

To what persons provisions for billeting soldiers under mutiny acts shall extend.

See 15 & 16 Vict. c. 50. s. 34., post, p. 396, and 17 & 18 Vict. c. 105. s. 34., post, p. 397.

6. [Justices to regulate the times of opening and closing houses.]

Repealed by 3 & 4 Vict. c. 61. s. 14., post, p. 199.

Empowering constables, &c. to visit licensed houses licensed to sell beer or spirituous liquors.

7. It shall be lawful for all constables and officers of police to enter all houses licensed to sell beer or spirituous liquors to be consumed upon the premises when and so often as such constables and officers think proper; and if any person having such licence as aforesaid, or any servant or other person in his employ or by his direction, refuse to admit or do not admit such constable or officer into such house or upon such premises, such person having such licence shall for the first offence forfeit any sum not exceeding £5, with costs of the conviction, to be recovered, within 20 days after that on which such offence was committed, before one or more justices; and it shall be lawful for any two or more justices before whom any such person is convicted of such offence for the second time to adjudge (if they so think fit) that such offender be disqualified from selling beer, ale, porter, cider, or perry by retail for two years next after such conviction, or for such shorter space of time as they think proper.*

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

False certificate.

8. [Any person making or using a forged or false certificate, on conviction before two justices, to forfeit £20.; licence obtained knowingly on forged or false certificate to be void, and any person who has made use of certificate to be for ever disqualified from obtaining a licence under 1 Will. 4. c. 64. or this act.]

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

No licence for beer to be drunk on the premises to be granted without a certificate.

Extra-parochial places.

9. [No licence for the sale of beer or cider by retail to be consumed on the premises to be granted, except upon the certificate hereby required: Provided always, that in extra-parochial places such certificate may be signed by inhabitants rated to the poor at £6 in any adjoining parish or parishes.]

See 20 Vict. c. 19.

Retailers compellable to produce their licences on requisition of two magistrates.

10. In case any complaint be laid before two justices against any person licensed for any offence against the tenor of his licence, or against this act, or 1 Will. 4. c. 64., it shall be lawful for the said justices (if they think fit) to require such person to produce his licence before them for

* An outhouse used as a cellar, belonging to the licensed premises, held to be part of the premises upon which constables are entitled to enter. A pecuniary penalty cannot be imposed on a second conviction. *Tott v. Selie*, 9 Weekly, Rep., 663.

their examination ; and if such person wilfully neglect or refuse so to do he shall forfeit for such offence such sum not exceeding £5 as the said justices think proper ; and such person shall and may be convicted, proceeded against, and dealt with for such offence in the same manner, mutatis mutandis, as is directed by 1 Will. 4. c. 64. with regard to persons guilty of a first offence against the said act ; and the penalty imposed for such offence shall be applied in the same manner as a penalty for a first offence against the said act is thereby directed to be applied.

11. The provisions in 1 Will. 4. c. 64., with reference to persons licensed under that act, and to the offences committed by such persons against that act, or against the tenor of any licence granted under it, and with reference to the sureties of such persons, and to persons doing the things thereby prohibited without the licence required by the said act, shall (except where altered by this act or repugnant thereto) be applicable to all persons licensed under this act, and to all offences committed by such persons of the same description as the offences mentioned in the said act, and to the sureties of all such persons in respect of such offences, and to all persons doing, without the licence required by this act, things of the same description as the things prohibited, without the licence required by the said act ; and the provisions in the said act, authorizing any party convicted to appeal against any conviction under the said act, shall extend to convictions under this act.

Powers, provisions, and penalties of 1 Will. 4. c. 64. to apply to persons licensed under this act, and to their sureties, &c.

12. [1 Will. 4. c. 64. to be in force, except as hereby altered ; interpretation clause to apply to this act.]

13, 14. [Duties on beer licences under the 1 Will. 4. c. 64. repealed, and new duties granted in lieu thereof. Such duties to be under commissioners of excise, &c.]

Duties on beer licences.

15. [Duty on licences to retail cider and perry not affected ; but every such licence to state whether it is granted for the sale of cider and perry by retail to be consumed not upon the premises, or for the retail of cider and perry to be consumed upon the premises.]

Licences for sale of cider and perry.

16. No licence under 1 Will. 4. c. 64. and this act for the sale of beer or cider shall authorize any person to take out or hold any licence for the sale of wine, spirits, or sweets or made wines, or mead or metheglin ; and if any person licensed under the said act and this act to sell beer or cider permit any wine or spirits, sweets or made wines, mead or metheglin, to be brought into his house or premises to be drunk or consumed there, or suffer any wine,

Licences under this act not to authorize persons to hold licences for sale of wine. Penalty on persons licensed under this act permitting wine

or spirits to be consumed on the premises.

spirits, sweets, mead, or metheglin, to be drunk or consumed in his house or premises by any person whomsoever, such person shall, over and above any excise penalty or penalties to which he may be subject, forfeit £20, to be recovered, levied, mitigated, and applied as other penalties (not being excise penalties) are by this act to be recovered, levied, mitigated, and applied.

See also 3 & 4 Vict. c. 61. s. 10., post, p. 198. and 24 & 25 Vict. c. 91. s. 11., post, p. 204., note †

Penalty on unlicensed persons selling beer and cider by retail to be drunk off the premises, £10.; to be drunk on the premises, £20.

17. Every person not duly licensed to sell beer, cider, and perry as the keeper of a common inn, alehouse, or victualling house, who sells any beer or cider or perry by retail, not to be drunk or consumed in or upon the house or premises where sold, without having an excise retail licence in force authorizing him so to do, shall forfeit £10; and every person not duly licensed to sell beer, cider, and perry as the keeper of a common inn, alehouse, or victualling house, who sells any beer, cider, or perry by retail, to be drunk or consumed in or upon the house or premises where sold, without having an excise retail licence in force authorizing him so to do, whether he be or be not licensed to sell beer to be consumed off the premises where sold, shall forfeit £20; which penalties shall be sued for and recovered, mitigated and applied, under the same provisions as any other penalty under any law or law* of excise.

* Sic.

See 1 Will. 4. c. 64. s. 7., ante, pp. 183, 184. and 3 & 4 Vict. c. 61. s. 13., post, p. 199.

The board over the door to state "not to be drunk on the premises," or "to be drunk on the premises."

18. Every person licensed under 1 Will. 4. c. 64. and this act shall, on the board by the said act required to be placed over the door, paint or cause to be painted and kept thereon, after the words "Licensed to sell beer or cider by retail," the additional words "not to be drunk on the premises," or "to be drunk on the premises," as the case may be, on pain of forfeiting the penalty by the said act imposed for not having such board affixed and continued over the door.

See 1 Will. 4. c. 64. s. 6., ante, p. 183.

What is a retailing of beer, cider, or perry.

19. Every sale of beer, or of cider or perry, in any less quantity than four gallons and a half, shall be deemed a selling by retail.

Penalties on persons licensed to sell beer or cider for selling spirits or wine.

20. All persons licensed under 1 Will. 4. c. 64. and this act, selling wine or spirits, or any sweets or made wines, or mead or metheglin, shall be liable to and shall incur all the penalties imposed by the laws of excise for selling spirits or wine, sweets or made wines, mead or metheglin, without licence.

See 24 & 25 Vict. c. 91. ss. 10, 11., post, p. 204, note †

21. [Certificate not to be required for houses in London or Westminster, or within the bills of mortality, or within any city or town corporate, or within one mile from the place used at the last election as the place of election or polling place of a town returning a member or members to parliament, if at the last census the population of such city, town corporate, or town exceeds 5,000 : but no licence in London or Westminster, or within the bills of mortality, or in any such city or town corporate or town returning a member or members to parliament, to be granted unless the house be of the value of £10 a year.]

What required to entitle to grant of licence within the bills of mortality, &c.

See 3 & 4 Vict. c. 61. s. 1., post, p. 196.

22. [No summons or order to be deemed legally served unless served by some constable or other peace officer.]

Service of summonses, &c.

SCHEDULE.

Form of Licence.

We, the undersigned, being of the Commissioners of Excise, [or I, the undersigned, being a person authorized and employed by the Commissioners of Excise to grant licences for selling beer, ale, and porter [or cider and perry, as the case may require], by retail, or being a collector or supervisor of excise for the collection or district of] do hereby authorize and empower A.B., now being a householder, and dwelling in a house in [here specify street, &c.] in the parish [or township, &c.] of within the limits of the chief office of excise [or within the limits of the said collection or district], to sell beer, ale, and porter [or cider and perry] by retail, in order that it may be consumed in the said dwelling house of the said A.B. and in the premises thereunto belonging, the said A.B. having duly entered into a bond with D.S. of and E.S. of as his [or her] surety [or sureties], and having deposited a certificate, signed by six persons, videlicet, [here set out the names and residences of the persons signing the certificate,] and by C.D. the overseer of the said parish [or township, &c.], according to the statute in such case made; provided and upon condition that the said A.B. do not sell any beer, ale, or porter made otherwise than from malt and hops [omit these words in licences to retail cider and perry], nor mix or cause to be mixed any drugs or other pernicious ingredients in any beer, ale, or porter [or in any cider or perry], nor fraudulently dilute, deteriorate, or adulterate any beer, ale, or porter [or any cider or perry], nor sell any beer, ale, or porter [or any cider or perry], knowing the same to have been fraudulently diluted, deteriorated, or adulterated, nor use, in selling any beer, ale, or porter [or any cider or perry], any measures which are not of the legal standard, or wilfully or knowingly permit any drunkenness, or any violent or quarrelsome or other disorderly conduct, in his [or her] house or premises, nor knowingly suffer any unlawful games or any gaming whatsoever therein, nor knowingly permit or suffer persons of notoriously bad character to assemble and meet together therein, but do maintain good order and rule therein, nor have or keep his [or her] house or premises open for the sale of beer, ale, or porter [or cider or perry], nor sell any beer, ale, or porter [or cider or perry], nor suffer the same to be drunk or consumed, in or at such house or premises at any time which by any order of the justices of the peace made in pursuance of an act passed in the

2. [Person applying to be licensed to produce an overseer's certificate of his being the real resident occupier of the house, and of the amount at which it is rated.] Overseer's certificate.

3. [In the case of a new house not rated, if applicant in other respects be duly qualified, licence to be granted on certificate of overseer] certifying the rent or annual value to be not less than that at which such house, with the premises occupied therewith, will be rated in one sum to the relief of the poor in the next rate to be made and allowed, and certifying also that the applicant has claimed to be rated in respect of the said house and premises. Provision for new houses occupied since a rate was made.

This clause is evidently imperfect.

4. [In extra-parochial places licences may be granted on production by party applying of the certificate of two inhabitant householders of his being the real resident occupier and of the required annual value.] Extra-parochial places.

See 20 Vict. c. 19.

5. [Penalty on overseers refusing to grant certificates, and on overseers and other persons granting false certificates, £20.] Penalty on overseers, &c.

6. [Any person forging certificate, or using a forged or false certificate, to forfeit £50, and licence obtained by forged or false certificate to be void, and the persons convicted of any such offence disqualified from obtaining licences under recited acts or this act.] Forgery of certificate, &c.

7. Every person hereafter lawfully convicted of felony, or of selling spirits without licence, shall for ever be disqualified from selling beer and cider by retail, and no licence to sell beer and cider by retail under the recited acts or this act shall be granted to any person so convicted; and if any person after having been so convicted as aforesaid take out or have any licence to sell beer or cider by retail under the recited acts or this act, the same shall be void; and every person who, after being convicted as aforesaid, sells any beer or cider by retail, in any manner whatsoever, shall incur the penalty for so doing without licence; and in all such cases, in the prosecution for the recovery of such penalty, a certificate from the clerk of the peace, or person acting as such, of any such conviction as aforesaid, shall on the trial in such prosecution be legal evidence thereof. Licences to be void on conviction of felony, or of selling spirits without licence.

8. Upon the death of any person licensed under the recited acts or this act before the expiration of the licence, it shall be lawful for the person authorized to grant licences On the death of a licensed person, the execu-

tors or administrators, or the widow or child, may be authorized to sell for the remainder of the term of licence, &c.

to authorize by endorsement or otherwise, as the commissioners of excise shall direct, the executors or administrators, or widow or child, of such deceased person, who shall be possessed of and occupy the dwelling house and premises before used for such purpose, to continue to retail beer and cider in the same house and premises during the residue of the term for which such licence was granted, without taking out a fresh licence, or payment of additional duty, and also at the expiration of such licence (in case the residue of the said term be less than three calendar months from the death of the person licensed) to grant a new licence to such executors, administrators, or widow, on payment of the proper licence duty, and entering into the usual bond.

Entry with excise.

9. [Persons licensed to retail beer or cider to make entry with the excise under 7 & 8 Geo. 4. c. 53. and 4 & 5 Will. 4. c. 51. on pain of forfeiting the penalties imposed by the last-mentioned act, and all beer and cider found in any unentered house, cellar, room, or place.]

Penalty on persons licensed to sell beer or cider having wine, spirits, or sweets in their entered premises.

Wine, &c. to be forfeited.

Licence in such case to be void.

10. If any person licensed to retail beer or cider under the recited acts or this act receive into or keep or have in his possession, in any cellar, room, or place entered for storing, keeping, or retailing beer or cider, any wine or spirits or sweets, such person shall, in addition to all other penalties, forfeit £50, to be recovered and applied under 7 & 8 Geo. 4. c. 53. and 4 & 5 Will. 4. c. 51.; and all wine, spirits, and sweets found in any such entered cellars, rooms, or places shall be forfeited; and on conviction of any such licensed person in any penalty for having wine, spirits, or sweets in his possession, or for selling or retailing wine, spirits, or sweets, his licence for retailing beer or cider shall become void, and be so adjudged.

See also 4 & 5 Will. 4. c. 85. s. 16., ante, p. 193, and 24 & 25 Vict. c. 91. ss. 10, 11., post p. 204, note †.

Excise officers may enter, &c.

11. [Officers of excise may enter the premises of licensed beer retailers, and seize wine, spirits, and sweets found.]

12. [Officers of excise may enter the houses of persons selling beer at the rate of 1½d. or less the quart, and seize wine, &c., and all beer which by law such persons are not entitled to sell.]*

* The object or meaning of this enactment does not seem clear. Beer at the rate of 1½d. per quart cannot be sold without a licence, and persons selling such beer without a licence are liable to the penalty imposed by s. 13. of the above act. Read v. Storey, 9 Weekly Rep., 418.

By an act passed since the above-mentioned decision, 24 & 25 Vict. c. 21. s. 3., any person is empowered to take out a licence (which is by the same act

13. If any person not duly licensed to sell beer or cider, retail beer or cider, either to be consumed in or upon the house or premises or off the premises where sold, or if any person sell any beer or cider to be consumed in or upon the house or premises where sold, without being duly licensed so to do, such person shall, in addition to any excise penalty to which he may become subject, forfeit £5, such penalty to be recovered in the same manner as any other penalty (not being excise penalties) are by the recited acts or this act to be recovered, levied, and applied: Provided always, that no information or other proceeding for the recovery of the said penalty shall be exhibited or commenced except by and in the name of a constable or other officer of the peace.

Additional penalty on unlicensed persons selling beer or cider;

to be sued for by a peace officer.

See 1 Will. 4. c. 64. s. 7., ante, pp. 183, 184, and 4 & 5 Will. 4. c. 85. s. 17. ante, p. 194, as to excise penalties.

14. [1 Will. 4. c. 64. s. 14. and 4 & 5 Will. 4. c. 85. s. 6. repealed.]

15. No person licensed under the recited acts or this act shall have or keep his house open for the sale of beer or cider, or sell or retail beer or cider, or suffer beer or cider to be drunk* or consumed in or at such house before five in the morning or after 12 at night of any day in the week in London or Westminster, or within any of the boroughs of Marylebone, Finsbury, the Tower Hamlets, Lambeth, or Southwark, as defined by 2 & 3 Will. 4. c. 64.,† or after 11 within any parish or place within the bills of mortality, or within any city, cinque port, town corporate, parish, or place, the population of which, according to the last parliamentary census, exceeds 2,500, or within one mile measured as aforesaid from any polling place used at the last parliamentary election for any town having the like population, or after 10 in the evening elsewhere, or before one in the afternoon, or at any time during which the houses of licensed victuallers now are or hereafter shall be closed, on any Sunday, Good Friday, Christmas Day, or any day appointed for a public fast or thanksgiving; and if any such person keep his house open for selling

Hours for opening and closing houses.

* Sic.

charged with a duty of 5s.) for the sale in any house or shop of table beer at a price not exceeding the rate of 1½d. the quart, and not to be drunk or consumed on the premises; and it is not necessary to the obtaining of such licence that such house or shop be rated to the relief of the poor to any amount, or that the person applying for the licence produce any certificate, or enter into any bond required by any act relating to the sale of beer by retail. By s. 4. the provisions of former acts relating to duties of the same description are extended to the duties granted by that act.

† For the definition here referred to, see ante, p. 24, note †.

beer or cider, or sell or retail beer or cider, at any time other than as herein-before prescribed and directed, such person shall forfeit the sum of 40s. for every offence, and every separate sale shall be deemed a separate offence.

Repealed, as to selling before one o'clock on Sunday, &c., by 11 & 12 Vict. c. 49. s. 2., post, p. 201.

Justices may mitigate penalties.

16. It shall be lawful for any justice or justices, when he or they shall see cause, to mitigate any penalty incurred for any offence against the recited acts or this act; provided that where any conviction takes place on any information exhibited under the laws of excise such mitigated penalty shall not be less than one fourth of the penalty.

See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

No person to forfeit his licence for a first offence, and no licence to be void unless so adjudged.

17. No person licensed to retail beer or cider under the recited acts or this act shall forfeit his licence for a first offence against the tenor or conditions of his licence, except as herein-before provided; and no such person shall be deemed to have forfeited his licence on any conviction by any justice for any offence, unless such forfeiture be adjudged and declared by the justice or justices by whom such person is convicted of the offence in respect of which the forfeiture is incurred; and when any justices adjudge and declare the licence of any person to be forfeited such justices shall cause notice in writing to be immediately given to the commissioners of excise within the limits of the chief office of excise, or to the collector of excise out of such limits, of such adjudication.

Notice to the excise.

18. [Licences may be granted to persons licensed before the passing of this act, whilst they continue the occupiers of the same houses, although below the qualification.]

19. [Penalties under this act, where not otherwise directed, to be recovered under the provisions of the recited acts.]

20. [Recited acts to be in force and apply to this act, except as hereby altered.]

21. [Powers, provisions, and penalties of 1 Will. 4. c. 64. and 4 & 5 Will. 4. c. 85. to apply to persons licensed under this act.]

22. [Act not to affect the Universities of Oxford and Cambridge or company of vintners.]

This is similar to the like saving in 1 Will. 4. c. 64. s. 29, ante, p. 189.

Regulation of the Sale of Beer and other Liquors on the Lord's Day.

11 & 12 VICT. c. 49.

1. [No licensed victualler or other person* to open his house for the sale of wine, spirits, beer, or other fermented or distilled liquors, or sell the same, on Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving, except as refreshment for travellers, before half past 12 o'clock in the afternoon, or where the morning divine service in the church or principal place of worship of the parish or place does not usually terminate by that time before the time of the termination of such service: Nothing herein to authorize the opening of any house for the sale of wine, spirits, beer, or other fermented or distilled liquors within the Metropolitan Police District at an earlier hour or time than is now allowed by law, where the opening of such house or such sale is now specially prohibited before any later hour or time than that herein before mentioned.]

Prohibition against the sale of beer, &c. on Sundays, &c.

See 2 & 3 Vict. c. 47. s. 42., ante, p. 21.

2. [3 & 4 Vict. c. 61. s. 15. repealed, so far as it provides against keeping house open or selling beer, &c. or suffering same to be drunk before one o'clock on Sunday, &c.]

3. It shall not be lawful for any licensed victualler, or person licensed to sell beer by retail to be drunk on the premises or not to be drunk on the premises, or any person licensed or authorized to sell any fermented or distilled liquors, or any person who, by reason of the freedom of the mystery or craft of vintners of the city of London, or of any right or privilege, shall claim to be entitled to sell wine by retail to be drunk or consumed on the premises, to open his house for the sale of any other articles whatsoever within the respective times during which the sale of wine, spirits, beer, or other fermented or distilled liquors is herein-before prohibited, except as refreshment for travellers.

Licensed victuallers, &c. not to open house for sale of any articles during prohibited hours.

4. No person shall open any house or place of public resort for the sale of fermented or distilled liquors, or sell therein such liquors, before half past 12 of the clock in the afternoon, or where the morning divine service in the

Restricting the sale of liquors before a certain time on Sundays, &c.

* This expression includes a vendor of made wines; and, per Byles, J., "the words 'or other person,' in law, mean the rest of the world." *Harris v. Jenna*, 9 Weekly Rep., 36.

church or principal place of worship shall not usually terminate by that time before the time of the termination of such service on Sunday, or before the like hour on Christmas Day or Good Friday, or any day appointed for a public fast or thanksgiving, except as refreshment for travellers.

Power to constables to enter houses opened for sale of liquors.

5. It shall be lawful for any constable at any time to enter into any house or place of public resort, for the sale of wine, spirits, or other fermented or distilled liquors; and every person who shall refuse to admit or shall not admit such constable into such house or place shall be deemed guilty of an offence against this act.

Penalty for offending against this act.*

6. Every person offending against this act shall be liable, upon a summary conviction for the same before any justice for the county, riding, division, liberty, city, borough, or place where the offence shall be committed..... to a penalty not exceeding £5 for every such offence; and every separate sale shall be deemed a separate offence.

18 & 19 VICT. c. 118.

1. [17 & 18 Vict. c. 79. repealed.]

Licensed victuallers prohibited from opening houses for sale of beer, &c. during certain hours of Sundays, &c.†

2. It shall not be lawful for any licensed victualler, or person licensed to sell beer by retail, to be drunk on the premises, or not to be drunk on the premises, or any person licensed or authorized to sell any fermented or distilled liquors, or any person who by reason of the freedom of the mystery or craft of vintners of the city of London, or of any right or privilege, shall claim to be entitled to sell wine by retail, to be drunk or consumed on the premises, to open or keep open his house for the sale of or to sell beer, wine, spirits, or any other fermented or distilled liquor between three and five o'clock in the afternoon, or after 11 o'clock in the afternoon on Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving, or before four o'clock in the morning of the day following such Sunday, Christmas Day, Good Friday, or days of public fast or thanksgiving, except to a traveller‡ or to a lodger therein.

* Under 13 & 14 Vict. c. 87. a moiety of any such penalty may be directed to be paid for the benefit of the superannuation fund therein mentioned.

† This enactment does not apply to the case of an innkeeper who gratuitously entertains guests with wine, beer, spirits, &c. during the prohibited hours. *Oberton v. Hunter*, 35 Law Times, 366.

‡ To constitute a traveller under this enactment it is not necessary that the party should be journeying on business. *Atkinson v. Sellers*, 5 Common

3. No person shall open any house or place of public resort for the sale of fermented or distilled liquors, or sell therein such liquors, between three and five o'clock in the afternoon or after 11 o'clock in the afternoon on Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving, or before four o'clock in the morning of the day following such Sundays, Christmas Day, Good Friday, or days appointed as aforesaid, except to travellers.

Houses of public resort prohibited being opened for sale of liquors during certain hours on Sundays, &c.

4. It shall be lawful for any constable at any time to enter into any house or place of public resort for the sale of beer, wine, spirits, or other fermented or distilled liquor or liquors; and every person who shall refuse to admit or shall not admit such constable into such house or place shall be deemed guilty of an offence against this act.

Power to constables to enter houses.

5. Every person who shall offend against this act shall be liable upon a summary conviction for the same before any justice for the county, riding, division, liberty, city, borough, or place where the offence shall be committed, to a penalty not exceeding £5 for every such offence, and every separate sale shall be deemed a separate offence.

Penalty for offences against this act.*

Sale of Wine, &c. in Boats moored or at anchor on Sundays, &c.

5 & 6 VICT. c. 44.

†5. No wines, spirits, or other exciseable liquors shall be sold by retail on board of any boat, steamboat, or other

No wines, &c. to be sold on board any boat

Bench Rep. N.S. 442. *Taylor v. Humphreys*, 9 Weekly Rep. 705. These cases show the difficulty of determining who is or is not a traveller.

In the first-mentioned case, Cockburn, C. J., in his judgment observed on the ambiguity of the term used by the legislature, and said, "Of course a man could not be said to be a traveller who goes to a place merely for the purpose of taking refreshment; but if he goes to an inn for refreshment in the course of a journey, whether of business or of pleasure, he is entitled to demand refreshment, and the innkeeper is justified in supplying him."

In the other case cited, three persons were in the house of the defendant (an innkeeper) at A. four miles from B. between the hours of 4 and 5 on Sunday afternoon; they had walked from B. for amusement, and on arriving at the defendant's inn demanded refreshment; on being asked by the defendant if they were travellers they replied in the affirmative, upon which he supplied them with refreshments. The defendant was convicted before justices for doing so, but on appeal judgment was given for the appellant. The justices did not convict the defendant for supplying the driver and conductor of an omnibus which plied between A. and B. with refreshment at the same time. They seem to have considered the innkeeper justified in doing this.

* Under 22 & 23 Vict. c. 32. s. 14. a moiety of any such penalty may be directed to be paid for the benefit of the superannuation fund therein mentioned.

† For the remainder of this act see ante, pp. 181, 182.

or vessel moored or lying at anchor during the time when prohibited to be sold in public houses.

vessel which shall be moored or lying at anchor within the Metropolitan Police District during the hours and times on Sundays, Good Friday, and Christmas Day on which licensed victuallers are by law obliged to keep their houses closed; and any master, steward, mistress, or stewardess, or any other person on board any such boat, [&c.] who shall during those hours on Sundays, Good Friday, and Christmas Day, in which the houses of licensed victuallers shall be closed, sell any wines, spirit, or other exciseable liquors in and on board such boat, [&c.] within the said district, shall be liable to a penalty not exceeding £5, which may be recovered before any magistrate of the metropolitan police courts, or if the offence be committed beyond the limits of the metropolitan police courts, before any two justices having jurisdiction therein, or shall, in the discretion of the magistrate or justices before whom the conviction takes place, be imprisoned for not longer than one calendar month [&c.]; and in every case of the adjudication of such pecuniary penalty and nonpayment thereof, it shall be lawful for such magistrate or justices to commit the offender [&c.] for a term not exceeding one calendar month, imprisonment to cease on payment of the sum due; and such penalty shall be paid to the Receiver of the Metropolitan Police.....

Refreshment Houses and Wine Licences.

23 & 24 VICT. c. 27.

Duties for licences for refreshment houses and for sale of wine.

1. [Duty for a licence to keep a refreshment house ;* and for licence to be granted to any licensed keeper of a refreshment house to sell therein by retail foreign wine to be consumed in such house or on the premises belonging thereto ;

and for licence to be taken out by any person for selling by retail in any shop foreign and British wine not to be consumed in the house or shop or on the premises where sold.]

Who may take out certain licences.

3. [Persons keeping shops for sale of commodities other than foreign wine, or who have taken out licence as a dealer in wine, (except persons expressly disqualified,) to be entitled to take out licence to retail wine not to be consumed on the premises.]†

* Duty altered by 24 & 25 Vict. c. 91. s. 9.

† 24 & 25 Vict. c. 91. s. 10. after reciting that doubts have arisen whether persons licensed to retail beer are precluded from taking out a licence for sale

4. Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

What shall be deemed selling by retail.

5. If any person licensed to sell wine not to be consumed on the premises shall, with intent to evade the provisions of this act, take or carry, or authorize or employ or permit or suffer any person to take or carry, any wine out of or from the house, shop, or premises of such licensed person, for the purpose of being sold on his account, or for his benefit or profit drunk or consumed, in any other house, or in any tent, shed, or other premises of any kind whatever belonging to such licensed person, or hired, used, or occupied by him, such wine shall be deemed and taken to have been drunk or consumed upon the premises; and the person selling the same shall be subject to the like penalties as if such wine had been actually consumed in any house or upon any premises licensed only for the sale thereof as aforesaid.

Permitting drinking wine in a neighbouring house, shed, &c. with intent to evade the provisions of this act to be deemed drinking on the premises.

Penalty.

6. All houses, rooms, shops, or buildings kept open for public refreshment, resort, and entertainment at any time between the hours of nine* of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine, or spirits respectively, shall be deemed refreshment houses within this act, and the resident owner, tenant, or occupier thereof shall be required to take out a licence under this act to keep a refreshment house;

Persons keeping houses, &c. herein named required to take out licences.

and every person who shall keep any house, room, shop, or building for the purpose of selling therein any victual or refreshment to be consumed on the premises where the same shall be sold (except beer, cider, wine, and spirits sold respectively under a proper licence in that behalf), and every person who shall keep any house, room, shop, or building for the consumption therein by the public of any refreshment (except as aforesaid), although the same shall not be sold therein, may, if he shall think fit, take out a licence under this act to keep a refreshment house;

of wine under the act in the text, enacts that nothing in the said act or in any other act shall be deemed to preclude any person from taking out or having granted to him any licence for the sale of wine under the said act by reason of his being licensed for the sale of beer. Sect. 11. enacts that no person licensed for the sale of wine under the said act shall be subject to any penalty or forfeiture under any act relating to the retailing of beer by reason of his selling, dealing in, retailing, or receiving into or having in his possession any wine or sweets, or made wines, or metheglin.

* Altered to ten o'clock by 24 & 25 Vict. c. 91. s. 8.

and in all proceedings and upon all occasions whatever it shall be sufficient to describe by the term refreshment house any house, room, shop, or building in which any such article as aforesaid (except as aforesaid) is sold to be consumed, or is consumed as aforesaid, without further or otherwise designating or describing the same.

Licences to sell foreign wine, to be drunk, &c.

7. [Licensed refreshment house keepers, being confectioners or eating house keepers, entitled to take out licences to sell foreign wine to be drunk on the premises.]*

Restrictions on grant of such licences.

8. [Wine licences not to be granted for refreshment houses under a certain rent or annual value. Sheriffs officers and officers executing legal process of any court disqualified to hold wine licences.]

Penalty for want of licence.

9. [Penalty for keeping a refreshment house for which a licence is required, without licence, not exceeding £20.]

Who to grant licences, &c.

10. [By whom licences under this act shall be granted. Forms of licences as in schedule to this act.]

Date, expiration, and renewal of licences.

11. [Licences granted between 31st March and 1st May in any year to be dated on the 1st April, and licences granted at any other time to be dated on the day when granted; and all licences to have effect on and after the day of the date until the 1st April then next, and to be renewed annually on payment of the duty.]

Provisions in favour of widow, &c. in case of death.

12. [On death of a licensed person, his representative, or widow or child, may be authorized to continue the business for which the licence was granted, for the remainder of the term thereof; person so authorized to be deemed a person licensed, and accordingly subject to the provisions of this act.]

Notice of first application for licence, &c.

13. [Notice of first application for a wine licence for a refreshment house to be given to justices, who may object to the granting thereof on grounds to be stated. No notice of objection to be signed, &c. until the applicant has been heard against the same.]

Notice of objection.

14. [Notice to be also given on church doors for three Sundays, and to be served upon one of the overseers, and of the constables or peace officers of the parish or place 14 days before application.]

* See note on s. 3., ante.

15. [Justices may object to the renewal of a wine licence if they see just cause of objection.] Objections to renewal.
16. [A list of licences to be kept by collectors and supervisors for inspection of the justices, and copies of the list to be transmitted to the justice's clerk.] List of licences.
17. [In case of complaint licensed retailers of wine to produce their licences on requisition of two justices under a penalty not exceeding £5.] Production of licences.
18. It shall be lawful for all constables and officers of police, when and so often as they shall respectively think proper, to enter into all houses licensed as refreshment houses under the authority of this act, and into and upon the premises belonging thereto; and if any person licensed to keep a refreshment house, or any servant or other person in his employ or by his direction, shall refuse to admit or shall not admit any constable or officer of police demanding admittance into such refreshment house or upon such premises, the person so licensed shall for the first offence forfeit and pay any sum not exceeding £5, together with the costs of conviction, to be recovered before one or more justices, on information or complaint made within seven days next after the day on which such offence was committed; and it shall be lawful for any two or more justices before whom any such person shall be convicted for the second time of any such offence to adjudge (if they shall so think fit) the licence or licences of such offender in respect of such refreshment house to be forfeited, and that he shall be disqualified from having any licence granted to him under this act in respect of such house for the space of two years, or for such shorter space of time as they may think proper to adjudge.
Constables and police officers empowered to visit licensed refreshment houses.
Penalty for refusing them admittance.

Licence to be forfeited on second conviction if justices think fit.
- See 2 & 3 Vict. c. 71. s. 14., ante, p. 43, and the note on 4 & 5 Will. 4. c. 85. s. 7., ante, p. 192.
19. [Excise penalty for selling wine by retail without licence.] Excise penalty.
20. If any person not duly licensed to sell wines, shall retail any wine, either to be consumed in or upon the house or premises or off the premises where sold, or if any person shall sell any wine to be consumed in or upon the house or premises where sold without being licensed so to do, such person shall, in addition to any excise penalty to which he may thereby become subject, forfeit the sum of £5. Additional penalty on unlicensed persons selling wine.

What shall be deemed foreign wine, and what shall be deemed spirits.

21. All liquor which shall be sold or offered for sale by any person, whether licensed under this act or not, as being foreign wine, or under the name by which any foreign wine is usually designated or known, shall, as against the person who shall so sell or offer the same for sale, be deemed and taken to be foreign wine ; and any fermented liquor containing a greater proportion than 40 per centum of proof spirit shall be deemed and taken to be spirits.

Licences to be void on conviction of felony or selling spirits without licence.

22. Every person convicted of felony or of selling spirits without licence shall for ever thereafter be disqualified from selling wine by retail, and no licence to sell wine by retail under this act shall be granted to any person who shall have been so convicted as aforesaid ;

and if any person shall, after having been so convicted as aforesaid, take out or have any licence to sell wine by retail under this act, the same shall be void to all intents and purposes ;

and every person who shall, after being convicted as aforesaid, sell any wine by retail in any manner whatsoever, shall incur the penalty for so doing without licence ;

and in all such cases, in the prosecution for the recovery of such penalty, a certificate from the clerk of assize or the clerk of the peace or person acting as such of any such conviction as aforesaid shall on the trial in such prosecution be legal evidence thereof.

Entry with excise.

23. [Licensed retailers of wine to make entry of houses, &c. with the excise.]

Excise officers empowered to enter the premises of licensed retailers of wine.

24. It shall be lawful for any officer of excise, during the hours in which any house licensed for the retail of wine to be consumed on the premises may be kept open, to enter into every house, cellar, room, or place entered for the storing, keeping, or retailing of wine to be consumed as aforesaid, and to make search for and seize all spirits which may be found in any such house, cellar, room, and place, and to examine all wine kept therein.

Excise penalty, &c.

25. [Excise penalty on persons licensed to retail wine having spirits in their entered premises, and wine licence avoided.]

Standard measures to be used.

26. [Standard measures to be used in the sale of wine, except wine in bottle, or quantities less than half a pint ; penalty for default, forfeiture of illegal measure, and not exceeding 40s. with costs, to be recovered by information]

or complaint made within seven days after offence, before two justices; such penalty to be over and above all penalties to which the offender may be liable under any other act.]

27. No person licensed under this act to sell wine by retail shall have or keep his house open for the sale of wine, nor shall sell any wine, nor shall suffer any wine to be drunk or consumed in or at such house at any time before five in the morning, nor after 12 at night, of any day in the week, in the cities of London or Westminster, or within the boundaries of any of the boroughs of Marylebone, the Tower Hamlets, Lambeth, or Southwark, as defined by 2 & 3 Will. 4. c. 64.* nor after 11 at night within any parish or place within the bills of mortality, or within any city, cinque port, town corporate, parish, or place, the population of which, according to the last parliamentary census, shall exceed 2,500, or within one mile, to be measured as aforesaid, from any polling place used at the last parliamentary election for any town having a like population, nor after 10 at night elsewhere; nor shall any such house be open for the sale or consumption therein of any article whatever at any time during which the houses of licensed victuallers now are or hereafter shall be closed on any Sunday, Good Friday, or Christmas Day, or any day appointed for a public fast or thanksgiving; nor at any time between one and four in the morning on any day whatever; and if any person licensed as aforesaid shall keep his house open for selling or shall sell any wine, or suffer any wine to be drunk or consumed in or at such house, at any other time than as herein-before prescribed and directed, or shall keep his house open as aforesaid, contrary to any prohibition in this clause contained, he shall forfeit the sum of 40s. for every offence; and every separate sale shall be deemed a separate offence: Provided always, that nothing in this clause contained shall extend to prevent the keeper of a refreshment house, being duly licensed to retail wine, from selling to any lodger therein any wine at any hour of the day or night, either on Sunday or any other day.

Limitation of hours for opening and closing houses licensed for the sale of wine by retail.

Exception in favour of lodgers.

28. [Any two justices where any riot or tumult happens or is expected may order every person licensed under this act to sell wine by retail in any house in or near the place

Houses licensed for sale of wine to be closed by order

* For the definition here referred to see ante, p. 25, note. Finsbury is omitted here probably by mistake; it is mentioned in the similar enactment as to beerhouses, s. 15. of 3 & 4 Vict. c. 61., ante, p. 199.

of justices in cases of riot, &c.

where such riot or tumult happens or is expected, to close his house at any time ;

any person disobeying to be deemed to have not maintained good order and rule therein, and to be guilty of an offence against the tenor of his licence.]

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Penalty on retailers of wine permitting drunkenness, &c. in their houses :

29. Every person licensed under this act to sell wine by retail who permits any person to be guilty of drunkenness or other disorderly conduct in the house or premises mentioned in such licence, or who himself is guilty of any such disorderly conduct, shall for every such offence forfeit the respective sums following ;

First offence :

and every person who transgresses or neglects or is a party in transgressing or neglecting the conditions and provisions specified in such licence, or allows such conditions or provisions to be in any way transgressed or neglected in the said house or premises, shall be deemed guilty of disorderly conduct ;

Second offence :

and every person so licensed who shall permit or be guilty of any such disorderly conduct shall for the first offence forfeit any such sum not less than 40s. nor more than £5, as the justices before whom he is convicted of

Third offence.

such offence adjudge ; and for the second offence any sum not less than £5 nor more than £10, and for the third, such offence any sum not less than £20 nor more than £50 ; and it shall be lawful for the justices before whom any such conviction for any such second or third offence shall take place to adjudge, if they so think fit, that such offender shall be disqualified from selling wine by retail for any term not exceeding five years next ensuing such conviction ;

Penalty for mixing spirits or drugs in wine or adulterating wine :

and if any person so licensed as aforesaid mix or cause to be mixed any spirits or any drugs or other pernicious ingredients with any wine sold in his house or premises, or fraudulently dilute or in any ways adulterate any such wine, or shall sell or offer for sale any wine which, to the knowledge of such person has been so mixed, diluted, or adulterated, he shall for the first offence forfeit any sum not less than £10 nor more than £20, as the justices before whom he is convicted of such offence adjudge, and for the second offence he shall be disqualified from selling wine by retail for the term of five years, or forfeit any sum not less than £20 nor more than £50, at the discretion of the justices before whom he shall be adjudged guilty of such second offence ;

First offence :

Second offence.

Penalty on selling wine after conviction

and if any offender convicted of such second offence as last aforesaid shall during such term of five years sell any

wine by retail, either in the house and premises mentioned in his licence, or in any other place, he shall forfeit any sum not less than £25 nor more than £50, and shall be subject to a like penalty at any and every house or place where he shall commit such offence.

of second offence.

30. All penalties under this act, except those denominated excise penalties, shall be recovered upon the information or complaint of a constable or other peace officer before two justices acting in petty sessions, and shall be prosecuted and proceeded for within three calendar months next after the commission of the offence in respect of which such penalty shall be incurred, or within such shorter time as may be herein limited with regard to any particular penalty;

Penalties other than excise penalties recoverable before two justices in petty sessions, within three months after offence committed.

and every person licensed under this act to retail wine, to be consumed on the premises, who is convicted before two justices so acting in and for the division or place in which is situate the house kept or theretofore kept by such person, of any offence against the tenor of the licence to him granted under this act, or of any offence for which any penalty is imposed by this act, shall, unless proof be adduced to the satisfaction of such justices that such person had been theretofore convicted within the space of 12 calendar months next preceding of some offence against the tenor of his licence or against this act, be adjudged to be guilty of a first offence against the provisions of this act, and to forfeit and pay any penalty by this act imposed for such offence, or if no specific penalty be so imposed then any sum not exceeding £5, together with the costs of the conviction;

and if such proof as aforesaid be adduced that such person had been previously convicted within the space of 12 calendar months next preceding of one such offence only, such person shall be adjudged to be guilty of a second offence against the provisions of this act, and to forfeit and pay any penalty by this act imposed for such offence, or if no specific penalty be so imposed then any sum not exceeding £10, together with the costs of the conviction; and if such proof as aforesaid be adduced that such person had been previously convicted within the space of 18 calendar months next preceding of two such separate offences, and if proof be adduced to the satisfaction of the justices that such person so charged is guilty of the offence charged against him, such person shall be adjudged to be guilty of a third offence against the provisions of this act, and to forfeit any penalty imposed by this act in respect of such offence, or if

Second offence.

Third offence.

no such specific penalty shall be so imposed then to forfeit and pay the sum of £50, together with the costs of the conviction.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Power to
adjudge
premises dis-
qualified.

31. [Justices may adjudge premises disqualified for three years for sale of wine on proof that within two years last preceding such third conviction two convictions have taken place.]

Penalties for
offences in
refreshment
houses ;

32. Every person licensed to keep a refreshment house under this act who shall (without a licence for that purpose) sell or permit or suffer to be sold within such refreshment house any intoxicating liquor, or shall knowingly suffer any unlawful games or gaming therein, or knowingly suffer prostitutes, thieves, or drunken and disorderly persons to assemble at or continue in or upon his premises, or do, suffer, or permit any act in contravention of his licence, shall, upon conviction thereof before two justices, pay for the first offence a fine not exceeding 40s., for the second offence a fine not exceeding £5, and for every subsequent offence a fine not exceeding £20, or be subject to a forfeiture of his licence, at the discretion of the justices before whom he shall be convicted ; and in case of such forfeiture of his licence, such person shall be disqualified for the space of one year then next ensuing from obtaining a fresh licence ; and such fresh licence, if obtained within the said year, shall be absolutely null and void to all intents and purposes.

Mitigation of
penalties.

33. [Power to justices to mitigate penalties.]

See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

Appeal.

34. [Appeal to the sessions against a second or third conviction.]

This is the same as 1 Will. 4. c. 64. s. 16., ante, p. 189, except that this applies to a second as well as a third offence, and to wine in the place of beer, &c.

Costs of appeal.

35. [Court to adjudge costs of appeal in certain cases.]

Proceedings on
appeal to be
carried on by
the constable,
and the ex-
penses of pro-
secution to be
charged on
county rates.

36. In every case in which any appeal shall be made by any person convicted of any offence under the provisions of this act to the general or quarter sessions, it shall be lawful for the convicting justices, if no other fit and proper person shall appear to prosecute such charge, and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that a constable of the

city of London Police Force within the city of London and liberties thereof, or a constable of the Metropolitan Police Force within the Metropolitan Police District, or if elsewhere the superintendent or inspector of police of the district, or the constable or other peace officer of the parish or place in which the house kept by the person charged shall be situate, as to the said justices shall seem fit, shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind any such constable, or the said superintendent or inspector of police, or other peace officer, in a sufficient recognizance so to do; and it shall be lawful for the justices before whom such offender shall have been convicted to order the treasurer of the county or place in and for which such justices shall then act to pay to such constable, superintendent, inspector, or other peace officer, and to the witnesses on his behalf, such sum or sums of money as to the court shall appear to be sufficient to reimburse them respectively the expenses which they shall have been severally put to in and about such prosecution, which order the clerk of the peace is hereby directed and required forthwith to make out, and to deliver to such constable, superintendent, inspector, or other peace officer and witnesses respectively; and the said treasurer is hereby authorized and required, upon sight of such order, forthwith to pay to the person authorized to receive the same such money as aforesaid, and the said treasurer shall be allowed the same in his accounts.

37. [Power to lord mayor, aldermen, or justices to summon witnesses and examine them on oath.] Witnesses.

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

38. [Penalty on witnesses refusing to attend or to give evidence.] Penalty on witnesses.

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

39. Every person licensed to sell wine, spirits, beer, cider, or any other fermented or distilled liquors by retail, to be drunk or consumed on the premises, who knowingly harbours or entertains, or suffers to remain in the place wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding 20s. Penalty for harbouring constables while on duty.

See also 10 Geo. 4. c. 44. s. 6., ante, p. 15.

Penalty on drunkards guilty of riotous or indecent behaviour.

40. Every person found drunk in any street or public thoroughfare, and who while drunk is guilty of any riotous or indecent behaviour, shall, upon summary conviction of such offence before two justices, be liable to a penalty of not more than 40s. for every such offence, or may be committed, if the justices or magistrate before whom he is convicted think fit, instead of inflicting on him any pecuniary penalty, to the house of correction for any time not more than seven days.

See also 2 & 3 Vict. c. 47. s. 58., ante, p. 30.

Penalty on drunken and disorderly persons refusing to quit licensed houses on request.

41. Any person who shall be drunk, riotous, quarrelsome, or disorderly in any shop, house, premises, or place licensed for the sale of beer, wine, or spirituous liquors by retail to be consumed on the premises, or for refreshment, resort, and entertainment under the provisions of this act, and shall refuse or neglect to quit such shop, house, premises, or place upon being requested so to do by the manager or occupier, or his agent or servant, or by any constable, shall, on conviction thereof before one justice, be liable to pay a fine not exceeding 40s.; and all constables are hereby authorized, empowered, and required, on the demand of such manager, occupier, agent, or servant, to assist in expelling such drunken, riotous, quarrelsome, and disorderly persons from such shops, houses, premises, and places.

Constables to assist in expelling them if required.

11 & 12 Vict. c. 43. applied.

42. [Provisions of 11 & 12 Vict. c. 43. to be applied in the recovery of penalties under this act, except excise penalties.]

Excise penalties.

43. [Recovery of excise penalties.]

Saving.

45. [Act not to affect the Universities of Oxford and Cambridge, or the vintners company in London (except freemen by redemption only), or the mayor or burgesses of the borough of St. Albans.]

FRAUDULENT REMOVAL OF GOODS BY TENANTS; RECOVERY OF POSSESSION OF DESERTED PREMISES.

11 GEO. 2. c. 19.

Landlords may distrain and sell goods fraudulently carried off the premises.

1. [In case any tenant of any hereditaments, upon the demise or holding whereof any rent is reserved, due, or made payable, fraudulently or clandestinely convey away or carry off or from such premises his goods or chattels, to prevent the landlord from distraining same for arrears of rent, the landlord, or any person by him lawfully em-

powered, may, within 30 days next ensuing such conveying away or carrying off, seize such goods and chattels wherever found, as a distress for the arrears of rent, and the same sell or dispose of in such manner as if distrained upon such premises for such arrears of rent.]*

See 2 & 3 Vict. c. 47. s. 67., ante, p. 35.

2. [Landlords not to seize goods, &c. bonâ fide sold to any person not privy to the fraud.] Bonâ fide sale.

3. [If any tenant fraudulently remove and convey away his goods or chattels as aforesaid, or if any person wilfully and knowingly aid any such tenant in such fraudulent conveying away or carrying off of any part of his goods or chattels, or in concealing the same, every person so offending shall forfeit to the landlord double the value of the goods carried off or concealed as aforesaid, to be recovered by action of debt.] Penalty on the said fraud, or assisting thereto.

4. [If the goods exceed not the value of £50, landlord to have recourse to two justices.] Recovery of penalty in certain cases.
See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

5. [Appeal may be made to the quarter sessions.] Appeal.
See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

6. [Where party enters into recognizance, justices order not to be executed.]

7. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her, or their servant or servants, agent or agents, or other person or persons aiding or assisting therein, are put, placed, or kept in any house, barn, stable, outhouse, yard, close, or place, locked up, fastened, or otherwise secured so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her, or their steward, bailiff, receiver, or other person or persons empowered, to take and seize as a distress for rent such goods and chattels, (first calling to his, her, or their assistance the constable, headborough, borsholder, or other peace officer of the hundred, borough, parish, district, or place where the same are suspected to be concealed, who are hereby required to aid and assist therein, and in case of a dwelling house, oath being also first made Landlords may break open houses, &c. to seize goods fraudulently secured therein, with aid of constable, &c.

* A landlord cannot distrain under this enactment goods removed before the rent becomes due. *Rand v. Vaughan*, 1 Bingham's New Cases, 767.

before some justice of a reasonable ground to suspect that such goods or chattels are therein,)* in the daytime to break open and enter into such house, barn, stable, outhouse, yard, close, and place, and to take and seize such goods and chattels for the said arrears of rent, as he, she, or they might have done by virtue of this or any former act if such goods and chattels had been put in any open field or place.

The intermediate provisions need not be here noticed.

Provision for
landlords
where tenants
desert the pre-
mises.

16.....If any tenant holding any lands, tenements, or hereditaments at a rackrent, or where the rent reserved shall be full three fourths of the yearly value of the demised premises, who shall be in arrear for one year's rent, desert the demised premises, and leave the same uncultivated or unoccupied so as no sufficient distress can be had to countervail the arrears of rent, it shall and may be lawful to and for two or more justices of the county, riding, division, or place (having no interest in the demised premises), at the request of the lessor or landlord, lessors or landlords, or his, her, or their bailiff or receiver, to go upon and view the same, and to affix or cause to be affixed on the most notorious part of the premises notice in writing what day (at the distance of 14 days at least)† they will return to take a second view thereof; and if upon such second view the tenant, or some person on his or her behalf, shall not appear and pay the rent in arrear, or there shall not be sufficient distress upon the premises, then the said justices may put the landlord or landlords, lessor or lessors, into the possession of the said demised premises; and the lease thereof to such tenant, as to any demise therein contained only, shall from thenceforth become void.‡

See 3 & 4 Vict. c 84. s. 13., ante, p. 61.

Appeal.

17. [Tenants may appeal from the justices.]

The intermediate provisions need not be here noticed.

* In order to prevent a breach of the peace, the presence of a constable is required in every case where force is resorted to; and if the goods be secured in a dwelling house, a previous application must be made to a magistrate. Per Tindal, C J., in *Rich v. Woolley*, 7 Bingham's Rep. 660.

† i.e., 14 clear days. *Creak v. Justices of Brighton*, 1 Foster & Finlaison's Rep., 110.

‡ Where magistrates gave possession of a dwelling house as deserted and unoccupied, and the judges of assize, on appeal, made an order for restitution, with costs, and the tenant brought an action of trespass for the eviction against the magistrates, constables, and landlord—Held that the record of the proceedings before the magistrates was an answer to the action. *Ashcroft v. Bourne*, 3 Barnewall & Adolphus' Rep., 684.

20. [In actions against persons relating to any entry under this act or otherwise, the defendants may plead the general issue, and in case plaintiff be nonsuited, &c., or have judgment against him, defendant to recover double costs.] Actions for entry.

See 5 & 6 Vict. c. 97. s. 2., post, p. 413.

57 GEO. 3. c. 52.

[Recites 11 Geo. 2. c. 19. s. 16.]

[The provisions, powers, and remedies by the said recited act given to lessors and landlords in case of any tenant deserting the demised premises, and leaving the same uncultivated or unoccupied, so as no sufficient distress can be had to countervail the arrears of rent, shall be extended to the case of tenants holding any lands, tenements, or hereditaments at a rack rent, or where the rent reserved shall be full three fourths of the yearly value of the demised premises, and who shall be in arrear for one half year's rent (instead of for one year, as in the said recited act is provided and enacted), and who shall hold such lands and tenements or hereditaments under any demise or agreement, either written or verbal, and although no right or power of re-entry be reserved or given to the landlord in case of nonpayment of rent* who shall be in arrear for one half year's rent instead of for one year, as in the said recited act is provided and enacted.] 11 Geo. 2. c. 19. s. 16. extended to tenants in arrear for half a year's rent.

See 3 & 4 Vict. c. 84. s. 13., ante, p. 61.

RECOVERY OF POSSESSION OF TENEMENTS AFTER DETERMINATION OF TENANCY.†

1 & 2 VICT. c. 74.

1. When the term or interest of the tenant of any house, land, or other corporeal hereditaments held by him at will or for a term not exceeding seven years, either without being liable to payment of rent or at a rent not exceeding the rate of £20 a year, and upon which no fine has been reserved or made payable, has ended or has been duly determined by a legal notice to quit or otherwise, and such tenant or (if such tenant do not actually occupy the premises, or only occupy a part thereof,) any person by whom the same or any part thereof is then actually When tenant or occupier of premises where there is no rent, or the rent does not exceed £20 a year, refuses to give possession, landlord may give him notice of his intention to proceed to

* The words following this asterisk seem surplusage.

† Provision for recovery of possession by landlords, where neither the value nor rent exceeds £50 a year and no fine or premium was paid, is made by the County Court Act 19 & 20 Vict. c. 108. *See s. 50, &c.*

recover possession, under the authority of this act.*

If tenant does not appear, or fails to show cause why he does not give possession, the justices may issue their warrant directing the constables to give the landlord possession.

occupied neglects or refuses to quit and deliver up possession of the premises or of such part thereof respectively, it shall be lawful for the landlord or his agent to cause the person so neglecting or refusing to quit and deliver up possession to be served (in manner herein-after mentioned) with a written notice, in the form set forth in the schedule, signed by the landlord or his agent, of his intention to proceed to recover possession under the authority and according to the mode prescribed in this act; and if the tenant or occupier do not thereupon appear at the time and place appointed, and show to the satisfaction of the justices herein-after mentioned reasonable cause why possession should not be given under the provisions of this act, and still neglect or refuse to deliver up possession of the premises or of such part thereof of which he is then in possession to the landlord or his agent, it shall be lawful for such landlord or agent to give to such justices proof of the holding and of the end or other determination of the tenancy, with the time or manner thereof, and where the title of the landlord has accrued since the letting of the premises, the right by which he claims the possession, and upon proof of service of the notice, and of the neglect or refusal of the tenant or occupier, as the case may be, it shall be lawful for the justices acting for the district, division, or place within which the said premises or any part thereof shall be situate, in petty sessions assembled, or any two of them, to issue a warrant under their hands and seals to the constables and peace officers of the district, division, or place within which the premises or any part thereof are or is situate, commanding them, within a period to be therein named, not less than 21 nor more than 30 clear days from the date of such warrant, to enter (by force if needful) into the premises, and give possession of the same to such landlord or agent: Provided always, that entry upon such warrant shall not be made on a Sunday, Good Friday, or Christmas Day, or at any time except between the hours of nine in the morning and four in the afternoon: provided also, that nothing herein shall be deemed to protect any person on whose application and to whom any such warrant is granted from any action, for or in respect of such entry and taking possession, where such person had not at the

* Upon an application under this act by a landlord to justices in petty sessions to recover possession of premises held over by his tenant after the expiration of the term, the tenancy having been proved to the satisfaction of the justices, and its legal determination, and the refusal of the tenant to quit—Held that the jurisdiction of the justices was not taken away by the tenant's setting up the title of a third person. *Rees v. Davies*, 4 Common Bench Rep. N.S., 56.

time of granting the same lawful right to the possession of the same premises : provided also, that nothing herein shall affect any rights to which any person may be entitled as out-going tenant by the custom of the country or otherwise.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

2. Such notice of application may be served either personally or by leaving the same with some person being in and apparently residing at the place of abode of the person so holding over as aforesaid, and the person serving the same shall read over the same to the person served or with whom the same is left as aforesaid, and explain the purport and intent thereof : Provided, that if the person so holding over cannot be found, and the place of abode of such person shall either not be known or admission thereto cannot be obtained for serving such summons, the posting up of the said summons on some conspicuous part of the premises so held over shall be deemed to be good service upon such person.

The manner in which such summons shall be served.

3, 4. [Provisions concerning stay of execution of warrants of possession.]

Stay of execution.

5. It shall not be lawful to bring any action or prosecution against the said justices by whom such warrant as aforesaid is issued, or against any constable or peace officer by whom such warrant may be executed, for issuing such warrant or executing the same respectively, by reason that the person on whose application the same is granted had not lawful right to the possession of the premises.

Protection of justices, constables, &c.

6. [Where landlord has a lawful title, he shall not be deemed a trespasser by reason of irregularity, but be liable in an action on the case for special damage proceeding from irregularity.]

Liability of landlord for irregularity.

7. ["Premises" to signify lands, houses, or other corporeal hereditaments ; "person" to comprehend a body politic, corporate, or collegiate as well as an individual, the singular number when necessary to give full effect to the enactments herein contained to extend to several persons or things ; and every word importing the masculine gender to extend to a female ; "landlord" to signify the person entitled to the immediate reversion, or, if the property be held in joint tenancy, coparcenary, or tenancy in common, to signify any one of the persons entitled to such reversion ; "agent" to signify any person usually employed by the

Interpretation clause.

landlord in the letting of the premises or in the collection of the rents thereof, or specially authorized to act in the particular matter by writing under the hand of such landlord.]

SCHEDULE to which this Act refers.

FORM No. 1.

NOTICE of owner's intention to apply to justices to recover possession.

I [owner or agent to the owner, *as the case may be*,] do hereby give you notice, that unless peaceable possession of the tenement [shortly describing it] situate which was held of me, or of the said [as the case may be], under a tenancy from year to year, or [as the case may be] which expired [or was determined] by notice to quit from the said or otherwise [as the case may be] on the day of , and which tenement is now held over and detained from the said be given to [the owner or agent] on or before the expiration of seven clear days from the service of this notice, I shall on next the day of at of the clock of the same day, at , apply to Her Majesty's Justices of the Peace acting for the district of [being the district, division, or place in which the said tenement, or any part thereof, is situate], in petty sessions assembled, to issue their warrant directing the constables of the said district to enter and take possession of the said tenement, and to eject any person therefrom.

Dated this

(Signed)

To Mr.

[Owner or agent.]

FORM No. 2.

COMPLAINT before two Justices.

The complaint of [owner or agent, &c., as the case may be,] made before us, two of Her Majesty's Justices of the Peace acting for the district of , in petty sessions assembled; who saith that the said did let to a tenement consisting of for under the rent of , and that the said tenancy expired [or was determined] by notice to quit, given by the said , as the case may be, on the day of and that on the day of the said did serve on [the tenant overholding] a notice in writing of his intention to apply to recover possession of the said tenement (a duplicate of which notice is hereto annexed), by giving, &c. [describing the mode in which the service was effected]; and that notwithstanding the said notice the said refused [or neglected] to deliver up possession of the said tenement, and still detains the same.

(Signed)

Taken the

day of

before us

(Signed)

A duplicate of the notice of intention to apply is to be annexed to this complaint.

FORM No. 3.

WARRANT to peace officers to take and give possession.

Whereas [set forth the complaint], We, two of Her Majesty's Justices of the peace in petty sessions assembled, acting for the of

, do authorize and command you, on any day within days from the date hereof [except on Sunday, Christmas Day, and Good Friday, *to be added if necessary*], between the hours of nine in the forenoon and four in the afternoon, to enter (by force, if needful,) and with or without the aid of *the owner or agent, as the case may be*, or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement, and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said [the owner or agent].

Given under our hands and seals this day of

To and all other constables
and peace officers acting for the
district of

REGULATION OF PAWNBROKERS.*

39 & 40 GEO. 3. c. 99.

1. [Determination of 36 Geo. 3. c. 87. and commencement of this act.]

2. It shall be lawful for all persons using and exercising the trade or business of a pawnbroker to demand, receive, and take, of and from all and every person and persons applying or offering to redeem any goods or chattels pawned or pledged with such pawnbroker, a profit after the following rates, † over and above the principal sum and sums lent and advanced upon the respective pledge or pledges, before any such pawnbrokers shall be obliged to re-deliver the same; (videlicet,)

Pawnbrokers
allowed to take
certain rates.

For every pledge upon which there has been lent any sum not exceeding 2s. 6d., the sum of one halfpenny for any time during which the said pledge shall remain in pawn not exceeding one calendar month, and the same for every calendar month‡ afterwards, including the current month in which such pledge shall be redeemed, although such month shall not be expired :

Rates.

* 5 & 6 Will. 4. c. 62. s. 12. enacts that where by any act in force for regulating the business of pawnbrokers any oath, affirmation, or affidavit might but for the passing of that act be required, the person who might be required to take or make such oath, &c. shall in lieu thereof make and subscribe a declaration to the same effect.

† The act in the text does not apply to a loan exceeding £10. Pennell v. Attenborough, 4 Queen's Bench Rep., 868; Fitch v. Rochfort, 1 Macnaghten & Gordon's Rep., 184. See 17 & 18 Vict. c. 90.

‡ Where the pledge is redeemed after several months, and the interest according to the terms of the act is a sum which is not an exact number of farthings, the pawnbroker is not entitled to calculate the interest on each month separately, taking upon each month the benefit of the fraction of the farthing. Quare, whether he be entitled to the benefit of the fraction at all. Regina v. Goodburn, 8 Adolphus & Ellis's Rep. 508.

The taking of a greater rate than is allowed is an offence against the act, punishable under s. 26. Rex v. Beard, 12 East's Rep. 673.

For every pledge upon which there has been lent 5s., one penny :

For every pledge upon which there has been lent 7s. 6d., one penny halfpenny :

For every pledge upon which there has been lent 10s., twopence :

For every pledge upon which there has been lent 12s. 6d., twopence halfpenny :

For every pledge upon which there has been lent 15s., threepence :

For every pledge upon which there has been lent 17s. 6d., threepence halfpenny :

For every pledge upon which there has been lent £1, fourpence, and so on progressively and in proportion for any sum not exceeding 40s. :

For every pledge upon which there has been lent any sum exceeding 40s. and not exceeding 42s., eightpence :

And for every pledge upon which there has been lent any sum exceeding 42s. and not exceeding £10, at and after the rate of threepence and no more, for the loan of every 20s. for all such money so lent by the calendar month, including the current month, and so in proportion for any fractional sum :

Which said several sums shall be taken in lieu of and as a full satisfaction for all interest due and charges for warehouse room.

Rate per month
when the inter-
mediate sum
lent exceeds
2s. 6d. but does
not exceed 40s.

3. Where any intermediate sum lent upon any pawn or pledge exceeds the sum of 2s. 6d. and does not exceed the sum of 40s., the person lending the same shall and may take, by way of profit as aforesaid, at and after the rate of fourpence and no more for the loan of 20s. by the calendar month, including the current month as aforesaid.

Pawnbrokers
to give farthings
in change.

4. Provided always, that in all cases where the sum to be demanded, received, and taken by any pawnbroker or pawnbrokers, his, her, or their servant or agent, of and from any person or persons applying or offering to redeem any goods or chattels pawned or pledged with such pawnbroker or pawnbrokers, either as profit upon any sum lent, or as part principal and part profit, amounts to a total sum of which the piece of money of the lowest denomination shall be one farthing ; and where the person or persons so applying or offering to redeem such goods or chattels shall have paid down the sum due for such principal and profit, or for such profit only (as the case may be), except the last remaining farthing, and shall not be able to produce and

pay to such pawnbroker or pawnbrokers, his, her, or their servant or agent, a current farthing, and which shall be to the satisfaction and liking of such person or persons to receive the same, but shall in lieu thereof tender to such person or persons to receive the same one halfpenny in order to discharge the said remaining farthing so due as aforesaid, the said pawnbroker or pawnbrokers, his, her, or their servant or agent, to whom such tender of a halfpenny for such purpose as aforesaid shall be made, shall in exchange thereof deliver unto such person or persons so redeeming goods as aforesaid one good and lawful farthing of the current coin of this kingdom, or in default thereof shall wholly abate the said remaining farthing from the total sum to be received by him or them of such person or persons so redeeming goods or chattels as aforesaid.

5. Provided always, that in all cases where the party or parties entitled to and applying for the redemption of goods pawned within the space of seven days after the expiration of the first calendar month after the same have been pledged, he, she, or they shall and may be at liberty to redeem the same without paying anything by way of profit to the pawnbroker for the said seven days, or such part thereof as shall then have elapsed; and that in all cases where the party or parties so entitled and applying as aforesaid after the expiration of the said first seven days and before the expiration of the first 14 days of the second calendar month, he, she, or they shall and may be at liberty to redeem such goods upon paying the profit payable for one calendar month and the half of another calendar month to the pawnbroker; but that in all cases where the party or parties so entitled and applying as aforesaid after the expiration of the said 14 days, and before the expiration of the said second calendar month, it shall be lawful for the pawnbroker to demand and take the profit of the whole second month; and that the like regulation and restriction shall take place and be in force in every subsequent calendar month wherein application shall be made for redeeming goods pawned.

Limiting the profits for part of a month.

6. Every person who takes by way of pawn or pledge any goods or chattels, whereon is lent any sum exceeding 5s., shall, before advancing any money upon such pawn or pledge, enter in a book or books to be kept for that purpose a description of the goods or chattels received in pawn, pledge, or exchange, and also the sum to be advanced thereon, with the day of the month and year on which,

Pawns to be entered in books.

and the name of the person by whom, such goods or chattels are so pawned, pledged, or exchanged, and the name of the street and number of the house, if said to be numbered, where such person abides, and whether such person is a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner of such goods and chattels, according to the information of the person pawning, pledging, or exchanging the same, into all which circumstances the pawnbroker is hereby required to inquire of the party pawning before any money is advanced; and where the money lent on any goods or chattels does not exceed 5s., such entry shall be made in such book or books, by every person so taking the same by way of pawn, pledge, or exchange as aforesaid, within four hours after the goods and chattels have been so pawned, pledged, or exchanged; and every pledge upon which is lent any sum above 10s. shall be entered in manner aforesaid in a book or books to be kept for that purpose, separate from all other pledges whatever; and every such entry of such pledge whereon is lent any sum exceeding 10s. shall be numbered in such book or books progressively as they are received in pawn in the manner following; viz., the first pledge received in pawn in September next shall be numbered N° 1, the second N° 2, and so on progressively until the end of the month; and the first pledge received in the next month shall be numbered N° 1, and the second N° 2, and so on progressively and in like manner until the end of the month; and the like regulation with respect to the numbers of all pledges above 10s. shall be observed in every succeeding month throughout the year; and upon every note or memorandum respecting any such pledge whereon is lent any sum exceeding 10s. shall be fairly written or printed, the number of the entry of such pledge so entered in such book as aforesaid; and every such person shall, at the time of the taking of every pawn, pledge, or exchange whatsoever, give to the person pawning, pledging, or exchanging the same a note or memorandum fairly written or printed, or in part written and in part printed, containing therein in like manner a description of the goods and chattels received in pawn, pledge, or exchange, and also the sum advanced thereon, with the day of the month and year on which, and the name and place of abode and number of the house, if said to be numbered, of the person or persons by whom such goods or chattels are so pawned, pledged, or exchanged, and whether such person is a lodger

Pawbrokers to
give a note
describing
things pawned.

or housekeeper as aforesaid by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner thereof, according to the information aforesaid, and upon which said note or memorandum or on the back whereof shall be moreover fairly written or printed the name and place of abode of the pawnbroker giving the same, which said note or memorandum the party pawning, pledging, or exchanging the said goods or chattels shall accept and take in all cases, and the pawnbroker shall not receive and retain such pledge unless the party pledging or offering to pledge the same shall accept and take such note or memorandum; and every such note, where the sum lent is less than 5s., shall be delivered gratis; and where the sum lent is 5s. or upwards, and less than 10s., such pawnbroker may take one halfpenny for the same;—where the sum lent is 10s. or upwards, and less than 20s., one penny for the same;—where the sum lent is 20s. or upwards, and less than £5., 2d. for the same; and where the sum lent is £5. or upwards, 4d. and no more; which note shall be produced to the pawnbroker before he or she shall be obliged to redeliver the respective goods or chattels, except as herein-after is excepted.*

Pawnbrokers empowered to take a halfpenny where the sum lent is less than 10s. (whether or not it be less than 5s.), 23 & 24 Vict. c. 21.

7. In all cases where goods or chattels pawned or pledged are redeemed, the pawnbroker shall, at the time of redemption, fairly write or indorse, upon every duplicate respecting such pawn or pledge, the amount of profit taken by him on the money lent upon such goods or chattels, and shall keep such duplicate in his custody for one year next following.

The amount of profits to be indorsed on duplicates when pledges redeemed.

8. If any person knowingly and designedly pawn, pledge, or exchange, or unlawfully dispose of the goods or chattels of any other person, not being employed or authorized by the owner thereof so to do, it shall be lawful for any justice to grant his warrant to apprehend any person so offending, and if thereof convicted, before any justice or justices, every such offender shall for every such offence forfeit not exceeding £5. nor less than 20s., and also the full value of the goods or chattels

Penalty against unlawfully pawning goods the property of others.

* A pawnbroker who, on taking pledges, omits to pursue the course required by this enactment, acquires no property in the pledges, and cannot maintain a lien on them against the assignees of the pawner. *Fergusson v. Norman*, 5 Bingham's New Cases, 76. See note on s. 26, post.

so pawned, pledged, exchanged, or disposed of, such value to be ascertained by such justice or justices; and in case the said forfeitures be not forthwith paid, the justice or justices before whom such conviction is had shall commit the party convicted to prison, to be kept to hard labour for not exceeding three calendar months, unless the said forfeitures be sooner paid; and if within three days before the expiration of the said term of commitment the said forfeitures be not paid, the said justice or justices, at his and their discretion, may order the person so convicted to be publicly whipped in the prison, or some other public place; and the said forfeitures, when recovered, shall be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the justice or justices before whom such conviction is had; but if the party injured decline to accept of such satisfaction and costs, or if there be any overplus of the said forfeitures, after making such satisfaction and paying such costs as aforesaid, then such forfeitures, or the overplus, shall be applied for the use of the poor of the parish, and be paid to the overseers for that purpose.

See 2 & 3 Vict. c. 71. ss. 27, 28, 47., ante, pp. 47, 48, 56. and 18 & 19 Vict. c. 126. s. 22., post, p. 383. Whipping of females abolished and other punishment substituted by 1 Geo. 4. c. 57.

Persons forging
or counterfeit-
ing notes.

9. If any person or persons whomsoever counterfeit, forge, or, alter, or cause or procure to be counterfeited, forged, or altered, any such note or memorandum as aforesaid, or utter, vend, or sell any such note as aforesaid, knowing the same to be counterfeited, forged, or altered, with intent to defraud any person or persons whomsoever, in all or any or either of the said cases such person or persons shall be punished in manner herein-after mentioned; and it shall be lawful for any person or persons, his, her, or their servants or agents, to whom any note is uttered or produced, shown, or offered, which, he, she, or they shall have reason to suspect to have been counterfeited, forged, or altered, to seize and detain such person or persons uttering, producing, showing, or offering the same, and to deliver him, her, or them, as soon as conveniently may be, into the custody of a constable or other peace officer, who is hereby required, as soon as conveniently may be, to convey such person or persons before some justice or justices for the county, riding, division, city, liberty, town, or place wherein the offence is supposed to have been com-

mitted; and if upon examination it appear to the satisfaction of such justice or justices that the person or persons charged with having committed any such offence is or are guilty thereof, then the said justice or justices is and are hereby authorized and required to commit the party or parties offending for not exceeding three calendar months.

10. In case any person or persons who shall offer by way of pawn, pledge, exchange, or sale any goods or chattels be not able, or refuse to give a satisfactory account of himself, herself, or themselves, or of the means by which he, she, or they became possessed of such goods or chattels, or wilfully give any false information to the pawnbroker, or to his or her servant or servants, as to whether such goods or chattels are his, her, or their own property or not, or of his or her name and place of abode, or of the name and place of abode of the owner or owners of the said goods or chattels, or if there be any other reason to suspect that such goods or chattels are stolen, or otherwise illegally or clandestinely obtained, or if any person or persons not entitled, nor having any colour of title, by law, to redeem goods or chattels in pledge or pawn, attempt or endeavour to redeem the same, it shall be lawful for any person or persons, his, her, or their servants or agents, to whom such goods or chattels are so offered, or with whom such goods or chattels are in pledge, to seize and detain such person or persons and the said goods or chattels, and to deliver such person or persons immediately into the custody of a constable or other peace officer, who is hereby required as soon as may be to convey such person or persons and the said goods and chattels so offered before some justice or justices for the county, riding, division, city, liberty, town, or place wherein the offence is supposed to have been committed; and if such justice or justices, upon examination and inquiry, have cause to suspect that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering and endeavouring to redeem the same has or have not any pretence or colour of right to redeem the same, it shall be lawful for such justice or justices to commit such person or persons into safe custody for such reason-

Persons not giving a good account of themselves on offering to pawn, &c. goods liable to punishment.*

* Various acts contain special provisions against pledging or receiving in pledge things provided for the public service and articles provided for certain manufactures; see, for instances, the annual mutiny and marine mutiny acts; 7 Geo. 4. c. 16. and 10 Geo. 4. c. 25. (Chelsea and Greenwich Hospitals); 42 Geo. 3. c. 90. and 17 & 18 Vict. c. 105. (Militia); 44 Geo. 3. c. 54. (Yeomanry and Volunteers); 16 & 17 Vict. c. 73. (Naval Coast Volunteers); and 6 & 7 Vict. c. 40., (as to materials intrusted to persons in the woollen, &c. manufactures).

able time as necessary for the obtaining proper information on the subject, in order to be further examined; and if upon either of the said examinations it appear to the satisfaction of such justice or justices that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering or endeavouring to redeem the same hath or have not any pretence or colour of right so to do, the said justice or justices is and are hereby authorized and required to commit the party or parties offending to the common gaol or house of correction, there to be dealt with according to law, where the nature of the offence authorizes such commitment by any other law, and where the nature of the offence does not authorize such commitment by any other law, then such commitment shall be for not exceeding three calendar months.

See also 2 & 3 Vict. c. 47. s. 66., ante, p. 34., and 24 & 25 Vict. c. 96. s. 103., post, p. 450.

Persons buying or taking in pledge unfinished goods, linen, or apparel intrusted to others to wash, mend, &c., to forfeit double the sum lent, and restore the goods.

11. If any person knowingly buy or take in as a pledge or pawn, or in exchange, any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatsoever plainly intended for the composing or manufacturing of any goods after such goods or materials respectively are put into a state or course of manufacture or into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials are completed or finished for the purposes of wear or consumption, or any linen or apparel, which goods, materials, linen, or apparel are or shall be intrusted to any person or persons to wash, scour, iron, mend, manufacture, work up, finish, or make up, and be convicted of the same before one or more justice or justices, every such person shall forfeit double the sum given for or lent on the same, to be paid to the poor of the parish where the offence is committed, to be recovered in the same manner as any other forfeitures are by this act directed to be recovered, and shall likewise be obliged to restore the said goods and materials to the owner thereof, in the presence of the said justice or justices.

See notes on s. 10., ante, and 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Search warrant for unfinished goods unlawfully come by.

12. If the owner or owners of any goods of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials whatsoever plainly intended for the composing or manufacturing of any goods after such goods or materials respectively are put into a

state or course of manufacture, or into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials are completed or finished for the purposes of wear or consumption, or any linen or apparel, which goods, materials, linen, or apparel are or shall be so intrusted as aforesaid, unlawfully pawned, pledged, or exchanged, shall make out, either on his, her, or their oath, or by the oath of any credible witness, or, being one of the people called quakers, by solemn affirmation, before any justice or justices within his or their jurisdiction, that there is just cause to suspect that any person or persons within the jurisdiction of any such justice or justices hath or have taken to pawn, or by way of pledge or in exchange, any such goods or materials, linen or apparel, so intrusted as aforesaid; of such owner or owners; and without the privity or authority of such owner or owners thereof, and shall make appear to the satisfaction of any such justice or justices probable grounds for such the suspicion of the owner or owners thereof, then any justice or justices within his or their jurisdiction may issue his or their warrant for searching, within the hours of business, the house, warehouse, or other place of any such person or persons who shall be charged, on oath or affirmation as aforesaid, as suspected to have received or taken in pawn, or by way of pledge or in exchange, any such goods or materials, linen or apparel, without the privity of or authority from the owner or owners thereof; and if the occupier or occupiers of any house, warehouse, or other place wherein any such goods, materials, linen, or apparel shall, on oath or affirmation as aforesaid, be charged or suspected to be, on request made to him, her, or them to open the same by any peace officer authorized to search there by warrant from any justice or justices for the county, riding, division, city, liberty, town, or place in which such house, warehouse, or other place is situate, refuse to open the same, and permit the same to be searched, it shall be lawful for any peace officer to break open any such house, warehouse, or other place, within the hours of business, and to search as he shall think fit therein for the goods, materials, linen, or apparel suspected to be there, doing no wilful damage; and no pawnbroker or other person or persons shall oppose or hinder any such search; and if upon the search of the house, warehouse, or other place of any such suspected person or persons as aforesaid any of the goods, materials, linen, or apparel so pawned, pledged, or exchanged as aforesaid be found, and the property of the owner or owners thereof be made out to the satisfaction of any such

justice or justices by the oath of one or more credible witness or witnesses, or, if any such witness or witnesses be of the people called quakers, by solemn affirmation, or by the confession of the person or persons charged with any such offence, any such justice or justices shall thereupon cause the goods, materials, linen, or apparel found on any such search, and pawned, pledged, or exchanged as aforesaid, to be forthwith restored to the owner or owners thereof.

See further provisions as to stolen goods, 21 Geo. 3. Stat. ch. 71, ss. 21-29, ante, pp. 46-48.

Where goods are unlawfully pawned, the pawnbroker to restore them.

13. If the owner or owners of any goods or chattels unlawfully pawned, pledged, or exchanged make out, either on his, her, or their oath, or by the oath of any credible witness, or, being one of the people called quakers, by solemn affirmation, before any justice or justices within his or their jurisdiction, that such owner or owners hath or have had his, her, or their goods or chattels unlawfully obtained or taken from him, her, or them, and that there is just cause to suspect that any person or persons within the jurisdiction of any such justice or justices hath or have taken to pawn, or by way of pledge or in exchange, any goods or chattels of such owner or owners, and without the privity or authority of such owner or owners thereof, and make appear to the satisfaction of any such justice or justices, probable grounds for such the suspicion of the owner or owners thereof, then any justice or justices within his or their jurisdiction may issue his or their warrant for searching, within the hours of business, the house, warehouse, or other place of any such person or persons who shall be charged on oath or affirmation as aforesaid, as suspected to have received or taken in pawn, or by way of pledge or in exchange, any such goods or chattels, without the privity of or authority from the owner or owners thereof; and if the occupier or occupiers of any house, warehouse, or other place wherein any such goods or chattels shall, on oath or affirmation as aforesaid, be charged or suspected to be, on request made to him, her, or them to open the same by any peace officer authorized to search there, by warrant from a justice or justices for the county, riding, division, city, liberty, town, or place in which such house, warehouse, or other place is situate, refuse to open the same, and permit the same to be searched, it shall be lawful for any peace officer to break open any such house, warehouse, or other place, within the hours of business, and to search as he shall think fit therein for the goods or

chattels suspected to be there, doing no wilful damage; and no pawnbroker or other person or persons shall oppose or hinder any such search; and if upon the search of the house, warehouse, or other place of any such suspected person or persons as aforesaid any of the goods or chattels so pawned, pledged, or exchanged as aforesaid be found, and the property of the owner or owners from whom the same shall have been unlawfully obtained or taken be made out to the satisfaction of any such justice or justices, by the oath of one or more credible witness or witnesses, or if any such witness or witnesses shall be of the people called quakers by solemn affirmation, or by the confession of the person or persons charged with any such offence, any such justice or justices shall thereupon cause the goods and chattels found on any such search, and pawned, pledged, or exchanged as aforesaid, to be forthwith restored to the owner or owners thereof.

See note on last preceding section.

14. If any goods or chattels be pawned or pledged for securing any money lent thereon, not exceeding in the whole the principal sum of £10, and the profit thereof, and if within one year after the pawning or pledging thereof (proof having been made on oath or affirmation as aforesaid by one or more credible witness or witnesses, and by producing the note or memorandum directed to be given by this act as aforesaid, before any justice or justices, to the satisfaction of any such justice or justices, of the pawning or pledging of any such goods or chattels within the said space of one year, or one year and three months, as the case may be,) any such pawner or pawners who was or were the real owner or owners of such goods or chattels at the time of the pawning or pledging thereof, his, her, or their executors, administrators, or assigns, tender unto the person or persons who lent, on the security of the goods or chattels pawned, his executors, administrators, or assigns, the principal money borrowed thereon, and profit according to the table of rates by this act established, and the person who took such goods or chattels in pawn, his or her executors, administrators, or assigns, shall thereupon, without showing reasonable cause for so doing to the satisfaction of such justice or justices, neglect or refuse to deliver back the goods or chattels so pawned for any sum or sums of money not exceeding the said principal sum of £10, to the person or persons who borrowed the money thereon, his, her, or their executors, administrators, or assigns, then and in any such case, on oath or affirmation as aforesaid thereof

Punishing the pawnbroker who will not deliver up goods to the pawner.

made by the pawner or pawners thereof, his, her, or their executors, administrators, or assigns, or some other credible person, any justice or justices for the place where the person or persons who took such pawn as aforesaid, his executors, administrators, or assigns, shall dwell, on the application of the borrower or borrowers, his, her, or their executors, administrators, or assigns, is and are hereby required to cause such person or persons who took such pawn, his, her, or their executors, administrators, or assigns, within the jurisdiction of the justice or justices, to come before such justice or justices, and such justice or justices is and are hereby authorized and required to examine, on oath or solemn affirmation, as the case may require, the parties themselves, and such other credible person or persons as shall appear before him or them, touching the premises; and if tender of the principal money due, and all profit thereon as aforesaid, shall be proved by oath or affirmation as aforesaid to have been made (such principal money not exceeding the said sum of £10) to the lender or lenders thereof, his, her, or their executors, administrators, or assigns, by the borrower or borrowers of such principal money, his, her, or their executors, administrators, or assigns, within the said space of one year, or one year and three months, as the case may be, after the said pawning or pledging of the goods or chattels, then, on payment by the borrower or borrowers, his, her, or their executors, administrators, or assigns, of such principal money, and the profit due thereon as aforesaid, to the lender or lenders, his, her, or their executors, administrators, or assigns, and in case the lender or lenders, his, her, or their executors, administrators, or assigns, shall refuse to accept thereof, on tender thereof to him, her, or them made by the borrower or borrowers thereof, his, her, or their executors, administrators, or assigns, before any such justice or justices, such justice or justices shall thereupon, by order under his or their hand or hands, direct the goods or chattels so pawned forthwith to be delivered up to the pawner or pawners thereof, his, her, or their executors, administrators, or assigns; and if the person or persons who shall have lent any principal sum or sums of money, not exceeding in the whole the said sum of £10, on any goods or chattels pawned, his, her, or their executors, administrators, or assigns, shall neglect or refuse to deliver up or make satisfaction for the goods or chattels which shall be so proved to the satisfaction of such justice or justices as aforesaid to have been so pawned, as any such justice or justices as aforesaid shall order and direct, then any such justice or justices shall and is and

are hereby authorized and required to commit the party or parties so refusing to deliver up or make satisfaction for the same . . . , until he, she, or they deliver up the goods or chattels so pawned, and continuing redeemable as aforesaid, according to the order of such justice or justices as aforesaid, or make such satisfaction or compensation as such justice or justices shall adjudge reasonable for the value thereof, to the party or parties entitled to the redemption of such goods or chattels so pawned, and continuing redeemable as aforesaid.

15. Any person who at any time produces any such note or memorandum as aforesaid to the person with whom the goods therein specified were pawned or pledged, as the owner thereof, or as authorized by the owner thereof to redeem the same, and requires a delivery of the goods or chattels mentioned therein, shall be deemed to be, so far as respects the person having such goods and chattels in pledge, the real owner of such goods and chattels, and the pawnbroker shall, after receiving satisfaction pursuant to this act respecting principal and profit, deliver such goods and chattels to the person so producing the said note or memorandum, and is hereby indemnified for so doing; unless he have had previous notice from the real owner not to deliver the same to the person producing such note, or unless notice have been given to him that the goods and chattels pawned have been or are suspected to have been fraudulently or feloniously taken or obtained, and unless the real owner proceed in manner herein-after provided and directed for the redeeming of goods and chattels pledged where such note hath been lost, mislaid, destroyed, or fraudulently obtained from the owner.

Persons producing notes or memorandums deemed the owners.

See ss. 12, 13., *ante*, and 2 & 3 Vict. c. 71. ss. 27, 28., *ante*, p. 47, 48.

16. In case any pawnbroker have had such previous notice as aforesaid, or in case any such note or memorandum as aforesaid be lost, mislaid, destroyed, or fraudulently obtained from the owner thereof, and the goods and chattels mentioned therein remain unredeemed, then the pawnbroker with whom the said goods and chattels were so pledged shall, at the request and application of any person who represents himself as the owner of the goods and chattels in pledge as aforesaid, deliver to such person so requesting and applying for the same a copy of the note or memorandum so lost, mislaid, destroyed, or fraudulently obtained as aforesaid, with the form of an affidavit of the

Provision for case of loss, &c. of note or memorandum.

particular circumstances attending the case, printed or written, or in part printed and in part written, on the said copy, as the same shall be stated to him or her by the party applying as aforesaid, for which copy of such note or memorandum, and form of affidavit, in case the money lent do not exceed the sum of 5s., the pawnbroker shall receive the sum of one halfpenny, and in case the money lent exceed the sum of 5s. and do not exceed the sum of 10s. the pawnbroker shall receive the sum of 1d., and in case the money lent exceed the sum of 10s. the pawnbroker shall receive the like sum of money as he is entitled to receive and take on giving the original note or memorandum, such money to be paid by the party applying for the same at the time of making the said application; and the person or persons having so obtained such copy of the note or memorandum and form of affidavit as aforesaid shall thereupon prove his, her, or their property in or right to such goods and chattels, to the satisfaction of some justice for the place where the said goods or chattels have been pledged, pawned, or exchanged, and shall also verify on oath or affirmation, as the case may be, before the said justice, the truth of the particular circumstances attending the case mentioned in such affidavit or affirmation to be made as aforesaid, the caption of such oath or affirmation to be authenticated by the handwriting thereto of the justice before whom the same is made, who is hereby required so to authenticate the same, whereupon the pawnbroker shall suffer the person or persons proving such property to the satisfaction of such justice as aforesaid, and making such affidavit or affirmation as aforesaid, on leaving such copy of the said note or memorandum, and the said affidavit or affirmation, with the pawnbroker, to redeem such goods or chattels.

Pawned goods deemed forfeited at the end of a year. Provision as to sale thereof.

17. All goods and chattels pawned or pledged shall be deemed forfeited and may be sold at the expiration of one year, exclusive of the day whereon the goods and chattels were so pawned as aforesaid;* and all goods and chattels so forfeited on which any sum above 10s. and not exceeding £10 was lent shall be sold by public auction, and not otherwise, by the order of the person having the same in pawn, after the expiration of the said year, but the person employed to sell such goods and chattels by auction shall cause the same to be exposed to public view, and catalogues

* A pawnbroker has no right to sell unredeemed pledges after the expiration of the year, if the owner tender him the principal and interest due. Walter v. Smith, 5 Barnewall and Alderson's Rep., 439.

thereof to be published; containing the name and place of abode of the pawnbroker, the month such goods were received in pawn, and the number of every such pledge as entered in the book or books kept for that purpose at the time the same were pawned; and an advertisement giving notice of such sale, and containing the name and place of abode of the pawnbroker, and the month such goods were received in pawn, to be inserted on two several days in some public newspaper two days at least before the first day of sale; and the goods and chattels pledged with every pawnbroker shall be inserted in every catalogue separate and apart from each other, upon pain of forfeiting to the owners for every offence in the premises any sum not exceeding £10 nor less than 40s.

18. All pictures, prints, books, bronzes, statues, busts, carvings in ivory and marble, cameos, intaglios, musical, mathematical, and philosophical instruments, and china, which shall be sold by public auction as aforesaid, shall be sold by themselves, and without other goods being sold at such sale, four times only in every year; (that is to say,) on the first Monday in January, April, July, and October in every year, and on the following day and days if the sale shall exceed one day, and at no other time; and the person employed to sell the same by auction shall cause the same to be exposed to public view, and catalogues thereof to be published, and an advertisement giving notice of such sale, and containing the name of the pawnbroker with whom the said goods were in pledge, to be inserted two several days in some public newspaper three days at the least before the first day of sale, upon pain of forfeiting to the owners for every offence in the premises any sum not exceeding £5 nor less than 40s.

Directing certain goods to be sold separate from other goods.

19. In case any person entitled to redeem goods or chattels in pledge, before or upon the expiration of the said one year from the time of pawning the same, give notice in writing, or in the presence of one witness, to the person having the same in pledge, or leave the same at his usual place of abode, not to sell the same at the end of the said one year, then and in every such case such goods or chattels shall not be sold or disposed of by the person having the same in pledge until after the expiration of three calendar months to be computed from the expiration of the said year, during which said term of three calendar months the owner shall have liberty to redeem the same, upon the terms stipulated and provided by this act.

On notice from persons having goods in pledge, not to sell, three months further allowed beyond the year for redemption.

Account of
sales to be
entered by the
pawnbroskers in
a book;

and overplus
paid to the
owner of the
goods pawned
or sold, &c.

20. Every person with whom any goods or chattels have been pawned or pledged shall from time to time enter in a book or books, to be kept by him for that purpose, a true and just account of the sale of all goods and chattels pawned with him for upwards of 10s., which shall be sold as aforesaid, expressing the day of the month when such goods were pledged, and the name of the person pledging the same, according to the entry made at the time of receiving the same in pawn, and also the day when and the money for which such goods or chattels pawned were sold, together with the name and place of abode of the auctioneer by whom the same were sold, according to the information thereof from the auctioneer; and in case any such goods or chattels be sold for more than the principal money and profit aforesaid due thereon at the time of such sale, the overplus shall, by every such pawnbroker, be paid, on demand, to the person by whom or on whose account such goods or chattels were pawned, his executors, administrators, or assigns, in case such demand be made within three years after such sale, the necessary costs and charges of such sale being first deducted; and such person who pawned or pledged such goods or chattels, or for whom such goods or chattels were so pawned or pledged, his executors, administrators, or assigns, shall, for his or their satisfaction in this matter, be permitted to inspect the entry to be made as aforesaid of every such sale, paying for such inspection the sum of 1d., and no more; and in case any person refuse to permit any such person or persons who pawned or pledged such goods or chattels, or who is or are entitled to such overplus money, to inspect such entry as aforesaid in any such book or books, (such person or persons, if an executor or executors, administrator or administrators, assignee or assignees, at such time producing his, her, or their letters testamentary, letters of administration or assignment,) or in case the goods or chattels were sold for more than the sum entered in any such book or books, or if any such person do not make such entry as aforesaid, or have not bonâ fide, according to the directions of this act, sold the same, or refuse to pay such overplus, upon demand, to the pawner, owner, his executors, administrators, or assigns, (he or they producing such their letters testamentary, letters of administration or assignment,) every such person or persons so offending shall for every such offence forfeit the sum of £10, and treble the sum such goods and chattels were originally pawned for, to the person by whom or on whose account such goods or chattels were pawned, his executors, administrators, or assigns, to be levied by

distress and sale of the offender's goods and chattels, by warrant under the hands and seals of two justices.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

21. No person having any goods or chattels in pledge shall under any pretence whatsoever, either by himself or by any other person for him, purchase any such goods or chattels so being in pledge with him, during the time the same remain in his custody as such pledge, save and except at such public auction as aforesaid, nor shall suffer the same to be redeemed with a view or intention to purchase the same; nor shall any such person taking or having any goods or chattels in pledge make or cause to be made any contract or agreement with any person offering to pledge or pledging the same with the owner of the pledge for the purchase, sale, or disposition of the said goods and chattels before the expiration of one whole year from the time of pawning or pledging the same; nor shall any pawnbroker purchase or receive or take any goods or chattels in pledge of or from any person or persons who shall appear to be under the age of 12 years, or to be intoxicated with liquor; or purchase, or take in pawn, pledge, or exchange, the note or memorandum aforesaid of any other pawnbroker; nor buy any goods or chattels in the course of his, her, or their trade or business before the hour of eight of the clock in the forenoon or after the hour of seven of the clock in the evening throughout the year; nor employ any servant or apprentice or any other person under the age of 16 years to take in any pledge or pledges; nor receive or take in any goods or chattels by way of pawn, pledge, or in exchange before eight of the clock in the forenoon or after eight of the clock in the evening between Michaelmas Day and Lady Day following, or before seven of the clock in the forenoon or after nine of the clock in the evening during the remainder of the year, excepting only until eleven of the clock on the evenings of Saturday throughout the whole year, and the evenings preceding Good Friday and Christmas Day, and every fast or thanksgiving day to be appointed by His Majesty; nor shall any person or persons exercise or carry on the trade or business of a pawnbroker on any Sunday, Good Friday, Christmas Day, or on any fast day or thanksgiving day to be appointed as aforesaid.

Pawnbroker not to purchase goods while in his custody.

Pledges not to be taken from persons under 12 years of age or intoxicated.

Time of buying goods or taking in pawns limited.

Hours for taking in pawns altered by 9 & 10 Vict. c. 98., post, p. 242. In the Metropolitan Police District, pawnbrokers are restricted from purchasing or taking pledges from persons under 16 years of age, by 2 & 3 Vict. c. 47. s. 60., ante, p. 24.

Pawnbrokers to place in view the table of profits, &c.

22. Every person and persons who shall follow and carry on the trade and business of a pawnbroker shall cause to be painted or printed in large legible characters the rate of profit allowed by this act to be taken by him, her, or them, and also the various prices of the notes or memorandums to be given by him, her, or them, according to the rates aforesaid, and an account of what notes or memorandums are to be delivered gratis, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed, or fraudulently obtained, and place the same in a conspicuous part or parts of the shop or other place wherein he, she, or they shall carry on such trade or business, so as to be visible to and legible by the persons pledging goods and chattels standing in the several boxes or places provided for such persons coming to pawn or redeem goods and chattels at such shop.

Pawnbroker's names and business to be placed over his door, on penalty of £10.

23. Every person or persons who shall follow or carry on the trade or business of a pawnbroker shall cause to be painted or written, in large legible characters, over the door of each shop or other place by him, her, or them respectively made use of for carrying on that trade or business, the christian and surname or names of the person or persons so carrying on the said trade or business, and the word "pawnbroker" or "pawnbrokers," as the case may be, following the same, upon pain of forfeiting the sum of £10 for every shop or place which shall be so made use of for the space of one week without having such name or names and the said word so painted or written as aforesaid, to be recovered by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of two justices; and in case sufficient distress be not found, or such penalty be not forthwith paid, such justices are hereby required, by warrant under their hands and seals, to cause the offender or offenders to be committed for not exceeding three calendar months nor less than fourteen days, unless the penalty and all reasonable charges be sooner paid and satisfied.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Satisfaction for pawnbroker's selling goods before limited time, or injuring them, &c.

24. If in the course of any proceeding before any justice or justices, in pursuance of or under this act, it appear or be proved to the satisfaction of the justice or justices, upon oath or solemn affirmation, that any of the goods and chattels pawned as aforesaid have been sold before the time allowed by this act, or otherwise than according to the directions of this act, or have been embezzled or lost, or are become or have been rendered

of less value than the same were at the time of pawning or pledging thereof, by or through the default, neglect, or wilful misbehavior of the person or persons with whom the same were so pledged or pawned, his executors, administrators, or assigns, agents or servants, then and in any such case such justice and justices is and are hereby required to allow and award a reasonable satisfaction to the owner of such goods or chattels in respect thereof or of such damage, and the money so allowed or awarded, in case the same do not amount to the principal and profit aforesaid which appear to be due to any person with whom the same were so pledged or pawned, his executors, administrators, or assigns, shall be deducted out of the said principal and profit; and in all cases where the goods and chattels pawned as aforesaid have been damaged as aforesaid, it shall be sufficient for the pawner, his executors, administrators, or assigns, to pay or tender the money due upon the balance, after deducting out of the principal and profit as aforesaid, for the goods or chattels pawned, such reasonable satisfaction in respect to such damage as any such justice or justices shall order or award; and upon so doing the justice or justices shall proceed as if the pawner or pawners, his, her, or their executors, administrators, or assigns, had paid or tendered the whole money due for the principal and profit aforesaid; and if the satisfaction to be allowed and awarded to the owner of such goods or chattels be equal to or exceed the principal and profit aforesaid, then and in such case the person to whom the same were so pledged or pawned, his executors, administrators, or assigns, shall deliver the goods and chattels so pledged to the owner thereof, without being paid anything for principal or profit in respect thereof, and shall also pay such excess (if any) to the person entitled thereto, under the penalty of £10, to be recovered and applied in manner herein-after mentioned.

Ses 18 & 19 Vict. c. 126: s. 22; post, p. 385.

25. It shall be lawful for any justice, upon complaint made on the oath or affirmation of one or more credible witness or witnesses, wherein any information shall be laid against any pawnbroker for having offended against this act, or respecting any dispute between any pawnbroker and person having pawned goods, or the owner of goods pawned, or respecting any felony or other matter, or on any other occasion whatsoever which in the judgment of any justice or justices shall make the production of any book, note, voucher, memorandum, duplicate, or other paper necessary, which shall or ought to be in the

Pawnbrokers
to produce their
books when
necessary.

hands, custody, or power of any pawnbroker, to summon such pawnbroker before him, to attend, with all and every or any book, note, voucher, memorandum, duplicate, or paper which he, or she may or ought to have in his or her custody or power relating to the same, which he or she is hereby required to produce before such justice or justices in the state the same was or were made at the time the pawn or pledge was received, without any alteration, erasure, or obliteration whatsoever; and in case such pawnbroker neglect or refuse to attend, or to produce the same in its true and perfect state, such pawnbroker shall, in case he doth not show good cause for such neglect or refusal, to the satisfaction of such justice or justices, forfeit any sum not exceeding £10 nor less than £5, to be levied and applied in the manner herein-after mentioned.

Penalty on
pawnbrokers
offending
against this act.

26. In case any pawnbroker in anywise offend against this act, every such pawnbroker shall, for every such offence in neglecting to make or cause to be made, in a fair and regular manner, in such book or books as aforesaid, any such entry as is required to be made by him, her, or them by this act, forfeit such sum of money as to the justice or justices before and by whom any information thereon shall be heard and determined in his or their discretion shall seem reasonable and fit, not exceeding the sum of £10, and for every other offence against this act, where no forfeiture or penalty is provided or imposed on any particular or specific offence against any part of this act, not less than 40s. nor more than £10; and all forfeitures incurred by any offence against this act shall and may be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal or hands and seals of any justice or justices; and the justices shall award one moiety of the said penalties to the party complaining, and the remainder of the aforesaid penalty or penalties not otherwise disposed of and applied by this act is to be applied for the use of the poor of the parish, and shall be paid to the overseers.*

See 2 & 3 Vict. c. 71. ss. 34, 45, 47., ante, pp. 50, 55, 56.

Limiting the
time of prosecuting by
information.

27. No pawnbroker shall be subject or liable to any prosecution or information before any justice or justices

* The penalty for not stating truly upon the ticket the sum advanced may be enforced by a common informer. *Regina v. Morgan*, 7 Weekly Reporter, 463.

by virtue of this act, for any offence against this act, unless information be given of such offence or offences within 12 calendar months next after the offence committed; and every such information shall be given and prosecuted before such justice or justices as shall act as such justice or justices near to the place where such offence or offences shall have been committed, unless committed within the city or liberties of London.

But see 2 & 3 Vict. c. 71. s. 44., ante, p. 54.

28. The churchwardens and overseers of any place where any offence is supposed to have been committed by any pawnbroker against this act, or some or one of such officers, at the discretion or direction of any justice, on having notice from such justice of such offence being supposed to have been committed, or some or one of them, to be nominated by such justice as aforesaid, are and is hereby required to prosecute every offender for every offence so to be suggested by such justice to have been committed against this act, at the expense of the respective parish whereof they or he are, is, or shall be for the time being such officers or officer.

Churchward-
ens, &c. to
prosecute, &c.

29. No person who has been convicted of any fraud, or of obtaining money under false pretences, or of any felony whatsoever, shall be allowed to prosecute or inform against any person or persons for any offence or offences against this act.

Convicted per-
sons, &c. not to
prosecute or in-
form against
any person, &c.

30. Nothing in this act shall extend to any person who lends money upon pawn or pledge, at the rate of £5 per centum per annum interest, without taking any further or greater profit on any pretence whatsoever.

Act not to ex-
tend to persons
lending money
at £5 per cent.
without further
profit.

31. [Act to extend to executors, &c. of pawnbrokers.]

32. [Persons sued may plead the general issue; and if a verdict pass for defendant, or plaintiff be nonsuited, defendant to have double costs.]

General
issue, &c.

See 5 & 6 Vict. c. 97. s. 2., post, p. 413.

33. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

Form of
conviction.

35. [Appeal to next quarter sessions.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

Appeal.

9 & 10 VICT. c. 98.

[39 & 40 Geo. 3. c. 99. recited.]

Hours between
which pawn-
brokers are
allowed to
receive or take
in pledges.

Penalty on
pawnbrokers
offending
against this act.

No pawnbroker shall receive or take in, or permit or suffer to be received or taken in, any goods or chattels by way of pawn, pledge, or in exchange, before eight of the clock in the forenoon or after seven of the clock in the evening between the 29th September and the 25th March following, or before seven of the clock in the forenoon or after eight of the clock in the evening during the remainder of the year, excepting only until eleven of the clock on the evenings of Saturday throughout the year, and the evenings next preceding Good Friday or Christmas Day, and every fast or thanksgiving day appointed by Her Majesty; and in case any pawnbroker offend against this act, every such pawnbroker shall, for every such offence, on conviction thereof upon the oath of any one or more credible witness or witnesses, before any one or more of Her Majesty's justices of the peace having jurisdiction over the place where such offence has been committed, forfeit not less than 20s. nor exceeding £5, as such justice or justices shall adjudge. [Penalty and costs may be levied by distress; and every such penalty shall be applied and disposed of as forfeitures incurred for any offence against recited act.]

See note on 39 & 40 Geo. 3. c. 99. s. 26., ante, p. 240.

19 & 20 VICT. c. 27.

[Recites that under 25 Geo. 3. c. 48. all persons using or exercising the trade or business of a pawnbroker are required to take out a licence annually, under the penalty of £50 for any neglect in that behalf; and that such licences are chargeable with certain stamp duties granted by 55 Geo. 3. c. 184.; also recites 39 & 40 Geo. 3. c. 99.; and that attempts are made to evade the provisions of the said acts by persons who receive goods and chattels into their possession, and advance money thereon, under the pretence that the transaction is a sale and purchase of such goods and chattels, and not a receiving or taking of the same by way of pawn or pledge.]

Persons herein
described
deemed to be
pawnbrokers.

1. The following shall be deemed to be persons using and exercising the trade and business of a pawnbroker within the meaning of the several acts aforesaid, and subject and liable to all the provisions and regulations thereof in relation to pawnbrokers, as well as the persons who by or under the said acts or any of them are declared or deemed

to be persons using or exercising the said trade or business ; (that is to say,) every person who shall keep a house, shop, or other place for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon, and shall purchase or receive or take in any goods or chattels, and pay or advance or lend thereon any sum of money not exceeding £10, with or under any agreement or understanding, express or implied, or which from the nature or character of the dealing may reasonably be inferred, that such goods or chattels may be afterwards redeemed or re-purchased on any terms whatever.

2. If any person, by or under this act or the several acts aforesaid or any of them declared or deemed to be a person using and exercising the trade or business of a pawnbroker, shall neglect or omit to take out the proper licence in that behalf, he shall forfeit £50, which shall be recoverable by information before any justice in the name of an officer of inland revenue prosecuting for the same on behalf of Her Majesty ; and in every information or other proceeding for the recovery of such penalty it shall be a sufficient description of the offence to charge that the defendant did use and exercise the trade and business of a pawnbroker without taking out a proper licence in that behalf ; and upon the conviction of such defendant the like proceedings shall be had for the levying of the penalty or for the recording of such conviction, and for the appeal of the defendant if he feel himself aggrieved thereby, as are provided by law, and may be adopted with regard to any penalty incurred under 39 & 40 Geo. 3. c. 99. [Power to justices to mitigate penalty to not less than one fourth.]

Penalty on persons declared or deemed to be pawnbrokers not taking out proper licences.

Penalties recoverable by summary information.

See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

COMMON LODGING HOUSES.

14 & 15 VICT. c. 28.

1. In citing this act for any purpose it shall be sufficient to use the expression "The Common Lodging Houses Act, 1851."

Short title.

2. For the purposes of this act "Common lodging house" includes, in any case in which only a part of a house is used as a common lodging house, the part so used of such house.

Interpretation of terms in this act.

By whom the
act is to be
executed.

3. This act shall be executed as follows; to wit,

1. Within and for all or any part of the Metropolitan Police District, by "The Commissioners of Police of the Metropolis," or such one of them as is from time to time appointed in that behalf by one of Her Majesty's Principal Secretaries of State

See 19 & 20 Vict. c. 2. s. 7., ante, p. 2.

As to expenses
of executing
this act

4. The expenses of and incident to the executing of this act shall be borne and paid as follows; to wit,

1. With respect to the Metropolitan Police District, as part of the general expenses of executing the acts for the time being in force relating to the Metropolitan Police Force.....

and the monies from time to time required for the payment of the expenses of and incident to the execution of this act shall be assessed, levied, raised, recovered, and paid accordingly.

Meaning of
the term "the
local authority."

5. The expression in this act "the local authority" means, with respect to the purposes and execution of this act with respect to any place, the body or person by this act authorized to execute with respect to the place the several provisions of this act.

Notice of this
act to be given
to the keepers
of common
lodging houses.

6. Within three months after the passing of this act the local authority shall and from time to time thereafter the local authority may give to the keeper of every common lodging house already or hereafter within the jurisdiction under this act of the local authority notice in writing of this act, and shall give such notice by leaving the same for such keeper at the house, and shall by such notice require the keeper to register the house as by this act provided, and such notice may be in the form in the schedule to this act annexed, or to the like effect.

See 16 & 17 Vict. c. 41. s. 3., post, p. 247, which seems to supersede or virtually repeal this enactment.

Registers of
common lodg-
ing houses
to be kept.

7. The local authority shall keep a register in which shall be entered the names and residences of the keepers of all common lodging houses within the jurisdiction of the local authority, and the situation of every such house, and the number of lodgers authorized according to this act to be received therein.

Lodgers not to
be received in
common
lodging houses

8. After one month after the giving of such notice to register as by this act provided, the keeper of any common lodging house or any other person shall not receive any

lodger in such house until the same has been inspected and approved for that purpose by some officer appointed in that behalf by the local authority, and has been registered as by this act provided.

until registered under this act.

See 16 & 17 Vict. c. 41. s. 3., post, p. 247, which seems to supersede or virtually repeal this enactment.

9. The local authority may from time to time make regulations respecting common lodging houses within its jurisdiction for all or any of the purposes respecting the same for which the local board of health are by the Public Health Act, 1848, authorized to make byelaws*, and for the well-ordering of such houses, and for the separation of the sexes therein: Provided always, that the regulations made under this act by the local authority shall not be in force until they have been confirmed by one of Her Majesty's Principal Secretaries of State.

Power to local authority to make regulations respecting common lodging houses.

10. The local authority shall have the same power of imposing penalties on offenders against the said regulations, subject to the same restrictions, as the local board with respect to offenders against such byelaws, and such penalties shall be recoverable in the same way as is provided in the said act with respect to the penalties imposed on offenders against such byelaws†; and a copy of the said regulations, purporting to be signed by the Secretary of State, and also to be signed by the local authority, (or to be sealed with the seal of the same, in case it have a seal,) shall be receivable in evidence of such regulations, and of the duly making and confirming thereof.

Power to local authority to impose penalties for offences committed against regulations.

* These purposes are "for fixing the number of lodgers who may be received into each house," "for promoting cleanliness and ventilation therein, and with respect to the inspection thereof, and the conditions and restrictions under which such inspection may be made." 11 & 12 Vict. c. 63. s. 66.

† The local board of health are empowered by their byelaws "to impose upon offenders against the same such reasonable penalties as they shall think fit, not exceeding the sum of £5 for each offence, and in the case of a continuing offence, a further penalty not exceeding the sum of 40s. for each day after written notice of the offence from the said local board Provided always, that all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty." 11 & 12 Vict. c. 63. s. 115. The remainder of the section does not seem to be imported by the above reference.

By s. 129. of 11 & 12 Vict. c. 63. "Any penalty imposed by or under the authority of this act, or any byelaw made under this act, the recovery whereof is not otherwise expressly provided for, may, upon proof on oath of the offence in respect of which the penalty is alleged to have been incurred, be recovered before two justices, together with such costs of the proceedings as they may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made, the same may be levied by distress," &c., and in default of sufficient distress by imprisonment for not exceeding three months. See, however, 2 & 3 Vict. c. 71. s. 45., *ante*, p. 55., and ss. 14, 15. of the act in the text, and the notes thereon.

Keepers of common lodging houses to give notice of fever, &c. therein.

11. The keeper of a common lodging house shall, when a person in such house is ill of fever or any infectious or contagious disease, give immediate notice thereof to the local authority, or some officer of the local authority, and also to the poor law medical officer and the poor law relieving officer of the union or parish in which the common lodging house stands.

See 16 & 17 Vict. c. 41. s. 7., post, p. 248.

As to inspection of common lodging houses.

12. The keeper of a common lodging house, and every other person having or acting in the care or management thereof, shall, at all times when required by any officer of the local authority, give him free access to such house or any part thereof.

As to cleansing of common lodging houses.

13. The keeper of a common lodging house shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof, to the satisfaction of and so often as shall be required by or in accordance with any regulation or byelaw of the local authority, and shall well and sufficiently and to the like satisfaction limewash the walls and ceilings thereof in the first week of each of the months of April and October in every year.

Penalty for offences against this act.

14. If the keeper of a common lodging house, or any other person having or acting in the care or management thereof, offend against any of the provisions of this act, or any of the byelaws or regulations made in pursuance of this act, or if any person in any common lodging house be confined to his bed for 48 hours by fever or any infectious or contagious disease, without the keeper of such house giving notice thereof as required by this act, every person so offending shall for every such offence be liable to a penalty not exceeding £5, and to a further penalty not exceeding 40s. for every day during which the offence continues*: Provided always, that this act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this act.

Recovery of penalties.

15. The clauses and provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the recovery of " damages not specially provided for, and of penalties, and

* It will be observed that by this clause an express penalty is imposed for offences against the byelaws of the local authority, the mode of recovery of which is provided for in the following section, and at the same time s. 10. gives power to the local authority to impose penalties for such offences, which are to be recovered under different provisions.

"to the determination of any other matter referred to "justices," are for the purposes and execution of this act incorporated with this act.*

16. The local authority, and all justices, constables, and others, shall respectively have full jurisdiction, powers, authorities, and indemnities for executing the several provisions of this act; and the restrictions of the Public Health Act, 1848, as to the hours within which common lodging houses may be entered by persons authorized by a local board of health, shall not apply to this act.

General powers of local authority, &c.

16 & 17 VICT. c. 41.

[14 & 15 Vict. c. 28. recited.]

1. This act may be cited for any purpose as "The Common Lodging Houses Act, 1853."

2. The Common Lodging Houses Act, 1851, and this act, shall be construed and executed as if they were one act.

Recited act and this act to be as one.

3. After three months after the passing of this act a person shall not keep a common lodging house or receive a lodger therein until the house have been inspected and approved for that purpose by some officer appointed in that behalf by the local authority, and have been registered as by the recited act provided; and a person shall not keep a common lodging house unless his name as the keeper thereof be entered in the register kept under the recited act: Provided always, that when the person so registered dies, his widow or any member of his family may keep the house as a common lodging house for not more than four weeks after his death without being registered as the keeper thereof.

All common lodging houses to be registered before being used, and to be kept only by registered keepers.

Proviso for widow, &c.

4. The local authority may refuse to register as the keeper of a common lodging house a person who does not produce to the local authority a certificate of character in

Local authority may refuse to register houses if keepers do

* Section 159 of 8 & 9 Vict. c. 20. (the Railways Clauses Consolidation Act) enacts that every penalty imposed by that act in respect of any offence within the Metropolitan Police District shall be recovered, enforced, accounted for, and applied in the same manner as penalties or forfeitures other than fines upon drunken persons or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, &c., by 2 & 3 Vict. c. 71; see ss. 44-47 of that act, *ante*, pp. 54-56. See, however, 16 & 17 Vict. c. 41. s. 11., *post*, p. 249, which seems to vary for the purposes of that act and the act in the text s. 45. of 2 & 3 Vict. c. 71. as that enactment apparently only authorizes imprisonment in default of there being a sufficient distress.

not produce
certificate of
character.

such form as the local authority shall direct, signed by three inhabitant householders of the parish respectively rated to the relief of the poor of the parish within which the lodging house is situate for property of the yearly rateable value of £6 or upwards.

Evidence of
register.

5. A copy of an entry made in a register kept under the recited act, certified by the person having the charge of the register to be a true copy, shall be received in all courts and before all justices and on all occasions whatsoever as evidence, and be sufficient proof of all things therein registered, without production of the register or of any document, act, or thing on which the entry is founded; and every person applying at a reasonable time shall be furnished gratis by the person having such charge with a certified copy of any such entry.

Power to local
authority to
require an ad-
ditional supply
of water to
common lodg-
ing houses.

6. When it appears to the local authority that a common lodging house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the local authority may by notice in writing require the owner or keeper of the common lodging house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the local authority may remove the common lodging house from the register until it be complied with.

As to removal
of sick persons
from common
lodging houses
to hospitals, &c.

7. When a person in a common lodging house is ill of fever or any infectious or contagious disease the local authority may cause such person to be removed to an hospital or infirmary, with the consent of the authorities thereof, and on the certificate of the medical officer of the parish, place, or district that the disease is infectious or contagious, and that the patient may be safely removed, and may, so far as the local authority think requisite for preventing the spread of disease, cause any clothes or bedding used by such person to be disinfected or destroyed, and may, if the local authority think fit, award to the owners of the clothes and bedding so disinfected or destroyed reasonable compensation for the injury or destruction thereof, and such compensation shall be paid to such owners by the proper officer of the parish or union in which the common lodging house is situate, out of the rates applicable to the relief of the poor of such parish, the amount of such compensation being first certified in writing upon a list of such articles.

See 14 & 15 Vict. c. 28. s. 11., ante, p. 246.

8. The keeper of a common lodging house in which beggars or vagrants are received to lodge, or other person having the care or management thereof, shall from time to time, if required by any order of the local authority served on such keeper or person, report to the local authority, or to such person or persons as the said local authority shall direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules shall be furnished by the local authority to the persons so ordered to report, which schedules they shall fill up with the information required, and transmit to the local authority.

Power to order reports from keepers of common lodging houses kept for beggars and vagrants.

9. The town council, trustees, commissioners, guardians, and other officers and boards specified in the first section of the "Nuisances Removal and Diseases Prevention Act, 1848," shall, on the receipt of a certificate of any police constable or of any officer appointed for the inspection of common lodging houses by the local authority, stating the existence in or about any common lodging house of any of the causes of complaint specified in that section, take all such proceedings as by that section are required to be taken by the town council, trustees, commissioners, guardians, and other officers and boards specified therein, on a notice signed by two inhabitant householders, and in like manner as nearly as may be as if such notice had been given; and the local authority shall have the like powers, and shall take all such proceedings, on receipt of any such certificate of the existence of any such cause of complaint, as the town council, trustees, commissioners, guardians, and other officers or boards have and are empowered and required to take under the provisions of that act.

Power to town councils, &c. to remove causes of complaint certified under Nuisances Removal, &c. Act.

This section seems virtually repealed by 18 & 19 Vict. c. 121. s. 1., post, p. 264., which repeals the Nuisances Removal, &c. Act, 1848; and see ss. 10. and 43. of 18 & 19 Vict. c. 121., post, pp. 265, 269.

11. The 14th section of the recited act extends to offences against any of the provisions of this act, so as to render the offenders liable to the penalties therein expressed; and any person convicted of any offence against the recited act and this act, or either of them, may, in default of payment of the penalty imposed, be imprisoned for any term not exceeding three months in the manner provided by law in that behalf

As to offences against this act.

12. Where a keeper of a common lodging house, or a person having or acting in the care or management of a

Conviction for third offence to disqualify per-

sons from keep-
ing common
lodging house.

common lodging house, is convicted of a third offence against the recited act and this act, or either of them, the justices before whom the conviction for such third offence takes place may, if they think fit, adjudge that he shall not at any time within five years after the conviction, or within such shorter period after the conviction as the justices think fit, keep or have or act in the care or management of a common lodging house without the previous licence in writing of the local authority, which licence the local authority may withhold or may grant on such terms and conditions as they think fit.

METROPOLIS LOCAL MANAGEMENT.]

18 & 19 Vict. c. 120.

It will be convenient to state that for the purposes of this act the metropolis includes the city of London and the parishes and places mentioned in schedules (A.), (B.), and (C.) to the act; that provision is made for the election of vestries in the parishes in schedules (A.) and (B.) (except Woolwich, which is under a Local Board of Health); that provision is further made for the election of district boards for the districts into which the smaller parishes, i.e., those included in schedule (B.) are united; that the vestries of the larger parishes, i.e., those included in schedule (A.), and the district boards, have considerable powers conferred on them over their respective parishes and districts; that provision is also made for the election of a Metropolitan Board of Works by the vestries of the parishes in schedule (A.) and the district boards, on which body large powers over the whole of the metropolis are conferred.

The schedules (A.), (B.), and (C.), so far as useful for the present purpose, are set out in Appendix (E).

Vestries and
district boards
may appoint
and pay cross-
ing sweepers.

118. It shall be lawful for every vestry and district board to appoint and pay, or for two or more vestries and district boards to unite, when necessary, in appointing and paying, suitable persons to cleanse and sweep, and to keep properly cleansed and swept daily, crossings for passengers over the streets and public thoroughfares within their respective jurisdictions, and in such situations as the said vestries or district boards may from time to time fix and determine, which persons so appointed shall be distinguished by their dress or some distinctive mark as public servants.

119. If any porch, shed, projecting window, step, cellar door or window, or steps leading into any cellar or otherwise, lamp, lamp post, lamp iron, sign, sign post, sign iron, showboard, window shutter, wall, gate, fence, or opening, or any other projection or obstruction placed or made against or in front of any house or building after the commencement of this act,* be an annoyance, in consequence of the same projecting into or being made in or endangering or rendering less commodious the passage along any street in their parish or district, it shall be lawful for the vestry or district board to give notice in writing to the owner or occupier of such house or building to remove such projection or obstruction, or to alter the same, in such manner as the vestry or board think fit; and such owner or occupier shall within 14 days after the service of such notice upon him remove such projection or obstruction, or alter the same in the manner directed by the vestry or board; and if the owner or occupier of any such house or building neglect or refuse, within 14 days after such notice, to remove such projection or obstruction, or to alter the same, in the manner directed by the vestry or board, he shall forfeit any sum not exceeding £5, and a further sum not exceeding 40s. for every day during which such projection or obstruction continues after the expiration of such 14 days from the time when he may be convicted of any offence contrary to the provisions hereof.

Owners, &c. to remove future projections, on notice from vestry or district board.

Penalty for neglect.

See 2 & 3 Vict. c. 47. s. 60. par. 7., ante, p. 32.

120. It shall be lawful for every vestry and district board, if any projection or obstruction which has been placed or made against or in front of any house or building in any such street before the commencement of this act shall be an annoyance as aforesaid, to cause the same to be removed or altered as they think fit: Provided always, that the vestry or board shall give notice in writing of such intended removal or alteration to the owner or occupier against or in front of whose house or building such projection or obstruction shall be, seven days before such removal or alteration shall be commenced, and shall make reasonable compensation to every person who incurs any loss or damage by such removal, excepting in cases where the obstruction or projection may now be removable under any act, in which case no compensation shall be made.

Vestry or district board may remove existing projections and make compensation for the same.

See 2 & 3 Vict. c. 47. s. 60. par. 7., ante, p. 32.

Hoads to be erected during repairs.

* Sic.

Penalty on not erecting hoards.

121. Every person who shall build or begin to build, or to* take down or begin to take down, any house, building, or wall, or alter or repair, or begin to alter or repair, the outward part of any house, building, or wall, shall, in all cases in which the footway is thereby obstructed or rendered inconvenient, cause to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same, to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence, in such cases as aforesaid, with such platform and handrail standing and in good condition, to the satisfaction of the vestry or district board of the parish or district in which such house, building, or wall is situate, during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same is necessary to prevent accidents, cause such hoard or fence to be well lighted during the night; and every such person who fails to put up such hoard or fence and such platform, with such handrail as aforesaid, or who does not, whilst the said hoard or fence is standing, keep the same well lighted during the night, shall for every such offence forfeit a sum not exceeding £5, and a further sum not exceeding 40s. for every day during the continuance of such default.

No hoard to be erected without licence from vestry or district board.

122. It shall not be lawful for any person to erect or set up in any street any hoard or fence or scaffold for any purpose whatever, or any posts, bars, rails, boards, or other things, by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a licence in writing first had and obtained from the clerk or surveyor of the vestry or district board of the parish or district in which such street is situate; and every such licence shall state the place where and the purpose for which such hoard or fence, scaffold or inclosure, is to be set up or made, and the size thereof, and the time for which it is to be permitted to continue.

But see s. 245., post, and 18 & 19 Vict. c. 122. s. 72., post, p. 259.

If hoard be erected or materials be deposited in any manner otherwise than to the satisfaction of the vestry or district board, the same may be removed.

123. If any person erect or set up in any street any hoard or fence or scaffold for any purpose whatever, or any posts, bars, rails, boards, or other things by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a licence from the vestry or district board, or do any such act as aforesaid in any other manner than as permitted by such licence, or continue the same beyond the time stated in such licence,

or fail to keep any hoard, fence, platform, or handrail in good repair, he shall for every such offence forfeit a sum not exceeding £5, and a further sum not exceeding 40s. for every day during the continuance of such offence; and it shall be lawful for the vestry or board to cause such hoard, fence, scaffold, or inclosure to be pulled down, and the materials thereof, and also all the bricks, mortar, lime, or other building materials, or other matters or things contained within any such inclosure, to be removed, and deposited in such place as the vestry or board may think fit, and to be kept until the charges of pulling down and removing the same be paid to the vestry or board; and in case the same be not claimed and the said charges paid within the space of eight days next after such seizure thereof, it shall be lawful for the vestry or board to order the same to be sold, and by and out of the proceeds of such sale to pay such charges, rendering any surplus to the owner or other person by law entitled thereto; and in case the proceeds of such sale be insufficient to cover such charges, and the charges of selling and disposing of such materials, matters, and things, the deficiency shall be repaid by the owner of such materials, matters, and things to the vestry or district board, on demand.

124. Every person laying out or opening any new street, or building therein, shall, during the operations necessary for forming such new street, or for building therein, take all such precautions for guarding against injury to the passengers along such street as may be directed by the vestry or district board of the parish or district within which such operations are being carried on; and if any person fail to comply with the directions of such vestry or district board, within such time as may be limited by them, such vestry or district board may do whatever may be necessary for carrying the same into effect, and the expenses thereby incurred shall be repaid to such vestry or district board by the person laying out or opening such new street, or building therein, as aforesaid, and shall be recoverable by them from such person in manner provided by this act.

Providing
against acci-
dents in laying
out new streets,
&c.

125. It shall be lawful for every vestry and district board and they are hereby required to appoint and employ a sufficient number of persons, or to contract with any company or persons, for the sweeping and cleansing of the several streets within their parish or district, and for collecting and removing all dirt, ashes, rubbish, ice, snow, and filth, and for the cleansing out and emptying of privies

Vestries and
district boards
to appoint
scavengers.

Penalty on scavengers.

and cesspools, sewers and drains, in or under houses and places within their parish or district ; and such company or persons are herein-after referred to as scavengers ; and such scavengers or their servants shall, on such days and at such hours and in such manner as the vestry or district board shall from time to time appoint, sufficiently execute and perform all such works and duties as they respectively are employed or contract to execute or perform ; and if any such company or person fail in any respect properly to execute and perform such works and duties such company or person shall for every such offence forfeit a sum not exceeding £5.

Penalty for obstructing scavengers in performance of their duty.

126. Any occupier of any house or land or other person who refuses or does not permit any soil, dirt, ashes, or filth, to be taken away by the scavengers appointed by or contracting with any vestry or board as aforesaid, or who obstructs the said scavengers in the performance of their duty, shall for every such offence forfeit and pay a sum not exceeding £5.

Owners or occupiers to pay scavengers for removal of refuse of trades.

123. In case any scavenger be required by the owner or occupier of any house or land to remove the refuse of any trade, manufacture, or business, or of any building materials, such owner or occupier shall pay to the scavenger a reasonable sum for such removal, such sum, in case of dispute, to be settled by two justices.

Dispute as to what is refuse of trade, &c. to be determined by justices.

129. If any dispute or difference of opinion arise between the owner or occupier of any such house or land and the scavengers required to remove such refuse as to what shall be considered as refuse, it shall be lawful for any two justices, upon application made to them by either of the parties in difference, to determine whether the subject matter of dispute is or is not refuse of trade, manufacture, or business, or of any building materials, and in every such case the decision of such justices shall be final and conclusive.

Appointment and duties of inspectors of nuisances.

133. Every vestry and district board shall nominate and appoint such number of persons to be inspectors of nuisances in their parish or district as the vestry or board may think fit ; and the inspectors of nuisances shall superintend and enforce the due execution of all duties to be performed by the scavengers employed or contracted with under this act, and report to the vestry or district board the existence of any nuisances ; and the vestry or board shall require every such inspector to provide and

keep a book in which shall be entered all complaints made by any inhabitant of the parish or district of any infringement of the provisions of this act, or of any bye-laws made thereunder, or of nuisances; and every such inspector shall forthwith inquire into the truth or otherwise of such complaints, and report upon the same to the vestry or board at their next meeting; and such report, and the order of the vestry or board thereon, shall be entered in a book, which shall be kept at their office, and shall be open at all reasonable times to the inspection of any inhabitant of the parish or district; and it shall be the duty of such inspector, subject to the direction of the vestry or board, to make complaints before any justices, and take legal proceedings for the punishment of any person for any offence under this act or any such byelaws.

134. Every vestry and district board under this act shall execute, within their respective parish or district all the duties and powers exercisable under the Nuisances Removal and Diseases Prevention Act, 1848, and the Nuisances Removal and Diseases Prevention Act, 1849, by any commissioners or other body, or any officers having under any act powers of cleansing, and shall be the local authority to execute any act passed or to be passed in the present session amending or repealing the said acts or either of them.

Vestries and district boards to be the local authorities to execute the Nuisances Removal Acts.

See 18 & 19 Vict. c. 121., post, p. 264, and 23 & 24 Vict. c. 77. ss. 6, 11., post, pp. 270, 271.

205. No scavenger or other person shall sweep, rake, or place any soil, rubbish, or filth, or any other thing, into or in any sewer or drain, or over any grate communicating with any sewer or drain, or into any dock or inlet communicating with the mouth of any sewer or drain, or into which any sewer or drain may discharge its contents, or into the Thames contiguous thereto; and every scavenger or other person who so offends shall for every such offence forfeit and pay any sum not exceeding £5.

Penalty on persons sweeping dirt into sewers.

See 2 & 3 Vict. c. 47. s. 60. par. 3., ante, p. 31.

206. If any person wilfully take away, break, throw down, or damage any lamp set up for lighting any of the streets in any parish mentioned in either of the schedules (A.) and (B.) to this act, or wilfully extinguish the light within the same, or damage the iron or other furniture thereof, or wilfully damage any other property vested in

Penalty for wilfully damaging, &c. lamps or other property of vestries or district boards, or of the metropolitan board.

Apprehension
of offenders.

any vestry or district board, or any property vested in the said metropolitan board, it shall be lawful for any person who sees such offence committed to seize, as also for any other person to assist in seizing, the offender, and by authority of this act, and without any other warrant, to convey him, or to deliver him into the custody of a police officer in order to be secured and conveyed, before some justice; and if the party accused be convicted of such offence he shall forfeit the sum of 40s., and shall also pay to such vestry or board the amount of damage done.

See also as to extinguishing light of lamps, 2 & 3 Vict. c. 47. s. 54. par. 16., ante, p. 29; and see 3 Geo. 4. c. 126. s. 121., and 7 & 8 Geo. 4. c. 24. s. 6. (turnpike roads), post, pp. 286, 293.

Persons care-
lessly or acci-
dentally da-
maging lamps,
&c. to make
satisfaction.

207. In case any person carelessly or accidentally break, throw down, or damage any such lamp, or the iron or other furniture thereof, or other such property as aforesaid, he shall pay the amount of damage done.

Penalty on in-
terrupting
workmen, &c.
in execution of
duties.

208. If any person at any time obstruct, hinder, or molest any surveyor, inspector, collector, or other officer, workman, or person whomsoever employed by virtue of this act in the performance or execution of his duty, every such person so offending shall for the first offence forfeit 5s., for the second offence 20s., and for any subsequent offence £5.

Penalty upon
occupiers ob-
structing exe-
cution of works,
or not dis-
closing owner's
name.

209. If the occupier of any premises prevent the owner thereof from carrying into effect, with respect to such premises, any of the provisions of this act, or any order of any vestry or district board made in pursuance thereof, he shall be liable to a penalty not exceeding £5 for every day during the continuance of such refusal or neglect; and if the occupier of any premises, when requested by or on behalf of the vestry or district board to state the name and description of the owner of the premises occupied by him, refuse or wilfully omit to disclose or wilfully mis-state the same, it shall be lawful for any justice to summon the party to appear before him or some other justice at a time and place to be appointed in such summons; and if the party so summoned neglect or refuse to attend at the time and place so appointed, or if he do not show good cause for such refusal, or if such wilful omission or mis-statement be proved, the justice before whom the party is so summoned may impose upon the offender a penalty not exceeding £5.

227. [Penalties, &c. to be recovered as provided by 11 & 12 Vict. c. 43.] Recovery of penalties.

See 2 & 3 Vict. c. 71. ss. 44, 45., ante, pp. 54, 55.

228. [Damages to be made good in addition to penalty, and the amount determined by justices convicting, and payment enforced as in the case of the penalty.] Damages in addition to penalty.

229. It shall be lawful for any officer or servant of the said metropolitan board, or any vestry or district board, and for any police constable, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this act, or any byelaw made in pursuance thereof, and whose name and residence shall be unknown to such officer or servant or police constable, and convey him with all convenient despatch before some justice, without any warrant or other authority than this act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender. Transient offenders may be apprehended.

See also 2 & 3 Vict. c. 47. s. 54., ante, p. 29.

230. [Proceedings not to be quashed for want of form ; and no certiorari.] Informality.

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

231. [Appeal to quarter sessions.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

Appeal.

233. [Penalties to be sued for within three months.]

Limitation of time.

234. [Application of penalties; half to informer, remainder to vestry or district board, except where penalty on vestry or board, and then whole to go to informer.] Application of penalties.

But see 2 & 3 Vict. c. 71. ss. 34, 47., ante, pp. 50, 56.

245. Nothing in this act shall interfere with the powers given by law to the Commissioners of the Police of the Metropolis. Saving for Metropolitan Police Commissioners.

249. [Act may be extended by order in council to parishes adjoining the metropolis not having less than 750 ratepayers.] Extension of act.

METROPOLITAN BUILDINGS.

18 & 19 VICT. c. 122.

Short title.

1. This act may be cited for all purposes as "The Metropolitan Building Act, 1855."

Interpretation of certain terms in this act.

3. [In the construction of act—

"Owner" to apply to every person in possession or receipt either of the whole or of any part of the rents or profits of any land or tenement, or in the occupation of such land or tenement other than as a tenant from year to year or for any less term, or as a tenant at will.*

"Person" to include a "body corporate."]

Act to extend to all places within limits defined by 18 & 19 Vict. c. 120.

4. This act shall extend to all places within the limits of the metropolis as defined by 18 & 19 Vict. c. 120., and to all other places to which such act may be extended, unless such places are in making such extension expressly excepted from this act.

PART II.
Dangerous structures.

Survey to be made of dangerous structures.

PART II.

Dangerous Structures.

69. Whenever it is made known to the commissioners herein-after named that any structure (including in such expression any building, wall, or other structure, and anything affixed to or projecting from any building, wall, or other structure,) is in a dangerous state, such commissioners shall require a survey of such structure to be made by the district surveyor, or by some other competent surveyor, and it shall also be the duty of the district surveyor to make known to the said commissioners any information he may receive with respect to any structure being in such state as aforesaid.

Definition of "commissioners."

70. [When such structure is situate elsewhere than within the city of London or the liberties thereof the expression "the commissioners" to mean "the Commissioners of Police of the Metropolis," or such one of them as may be authorized by one of Her Majesty's Principal Secretaries of State to act in the matter of this act.]

See 19 & 20 Vict. c. 2. s. 7., ante, p. 2.

* S. and M., tenants in fee of a piece of land on which was a chapel, demised same to N. for 21 years. Certain expenses having been incurred by the commissioners under ss. 72., 73.—Held that S. & M. were not liable as owners within the meaning of ss. 3, 72, 73. of 18 & 19 Vict. c. 122. *Mou-rilyan v. Labalmondiere*, 9 Weekly Rep. 341.

71. Upon the completion of his survey the surveyor employed shall certify to the said commissioners his opinion as to the state of any such structure as aforesaid.

Surveyor on completion of survey to give certificate.

72. If such certificate is to the effect that such structure is not in a dangerous state, no further proceedings shall be had in respect thereof, but if it is to the effect that the same is in a dangerous state, the commissioners shall cause the same to be shored up or otherwise secured, and a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner or occupier of such structure requiring him forthwith to take down, secure, or repair the same, as the case requires.

Proceedings to be taken after certificate.

73. If the owner or occupier to whom notice is given as last aforesaid fails to comply, as speedily as the nature of the case permits, with the requisition of such notice, the said commissioners may make complaint thereof before a justice; and it shall be lawful for such justice to order the owner, or on his default the occupier, of any such structure, to take down, repair, or otherwise secure, to the satisfaction of the surveyor who made such survey as aforesaid, or of such other surveyor as the said commissioners may appoint, such structure or such part thereof as appears to him to be in a dangerous state, within a time to be fixed by such justice; and in case the same is not taken down, repaired, or otherwise secured within the time so limited, the said commissioners may with all convenient speed cause all or so much of such structure as is in a dangerous condition to be taken down, repaired, or otherwise secured, in such manner as may be requisite; and all expenses incurred by the said commissioners in respect of any dangerous structure by virtue of the second part of this act shall be paid by the owner of such structure, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.*

On noncompliance with notice justice to summon owner, &c., and make order to comply with requisition.

In default of compliance with justice's order, commissioners may do the work and recover expenses.

74. If such owner cannot be found, or if, on demand, he refuses or neglects to pay the aforesaid expenses, the said

If owner cannot be found, commissioners

* These expenses are under ss. 97. and 103., *post*, recoverable in a summary manner under 11 & 12 Vict. c. 43., and s. 11. of that act requires a complaint to be made within six months from the time when the matter of such complaint arose.

Where the commissioners took down a dangerous structure in January 1857, and in April 1858 gave the owner notice of the expenses, and demanded payment, with which demand he refused to comply, and in May following they laid a complaint for nonpayment—Held that the six months limited by 11 & 12 Vict. c. 43. s. 11. ran from the demand and refusal, and not from the completion of the works. *Labalmondiere v. Addison*, 5 Jurist, N.S., 433.

may sell structure, giving the surplus to owner, &c.

commissioners, after giving three months notice of their intention to do so, by posting a printed or written notice in a conspicuous place on the structure in respect of which or of part of which they have incurred expense, or on the land whereon it stands, may sell such structure, and they shall, after deducting from the proceeds of such sale the amount of all expenses incurred by them, restore the surplus (if any) to the owner.

Payments by or to the commissioners, how made.

75. [All payments hereby directed to be made by or to the commissioners shall, in the cases of payments in respect of any structure situate elsewhere than within the city of London, be made by or to the Receiver of Metropolitan Police.] No commissioner or other officer shall be liable in respect of any loss that may be sustained by any person in consequence of the exercise by the said commissioners of the powers hereby given them, unless such loss happens through the wilful default of such commissioner or other officer.

Indemnity to commissioners, &c.

Surplus how to be applied if no demand made for it.

76. In cases where any surplus is hereby made payable to any owner, if no demand for the same is made by any person entitled thereto within one year, then the same shall be paid into the Bank of England in the name and with the privy of the accountant general of the Court of Chancery, to be placed to his account there to the credit of the owner (describing him so far as the commissioners can), subject to the control of the court, and to be paid out to the owner on his applying by petition, and proving his title thereto.

Fees to surveyor.

77. There shall be paid to the district surveyor, or to such other surveyor as aforesaid, in respect of his services under the second part of this act, such fees, not exceeding the amounts specified in the second part of the second schedule hereto, as may from time to time be directed by the metropolitan board of works.

Metropolitan board may appoint special fees for services not provided for.

78. If any special service is required to be performed by the district surveyor, or by such other surveyor as aforesaid, under the second part of this act, for which no fee is specified in the said schedule, the said metropolitan board may order such fee to be paid for such service as they think fit.

Fees to be deemed part of expenses.

79. All fees paid to the district surveyor, or to such other surveyor as aforesaid, by virtue of the second part of this act, shall be deemed to be expenses incurred by the said

commissioners in the matter of the dangerous structure in respect of which such fees are paid, and shall be recoverable by them from the owner accordingly.

80. In cases where a structure has been certified by a district surveyor, or such other surveyor as aforesaid, to be dangerous to its inmates, a justice may, if satisfied of the correctness of such certificate, upon the application of the said commissioners, by order under his hand direct any inmates of such structure to be removed therefrom by a constable or other peace officer, and if they have no other abode he may require them to be received into the work-house established for the reception of the poor of the place in which such structure is situate.

Justice may cause inmates to be removed from dangerous structures.

81. Subject to the approval of one of Her Majesty's Principal Secretaries of State, the said commissioners may appoint such persons, at such salaries, and make such regulations as they think fit for carrying into execution the second part of this act; and all expenses incurred by them, not hereby otherwise provided for, shall, in the case of expenses incurred by the said Commissioners of Police, be deemed to be expenses incurred by them in respect of the police force of which they are Commissioners, and be payable accordingly;.....

Powers of commissioners to appoint officers.

PART III.

Party Structures.

PART III. Party structures.

82. [Definition of building owner and adjoining owner.]

83. [Rights of building owner.]

84. [Rights of adjoining owner.]

85. [Rules as to exercise of rights by building and adjoining owners.]

86. Whenever any building owner has become entitled, in pursuance of this act, to execute any work, it shall be lawful for him, his servants, agents, or workmen, at all usual times of working, to enter on any premises for the purpose of executing and to execute such work, removing any furniture, or doing any other thing that may be necessary, and if such premises are closed he or they may, accompanied by a constable or other officer of the peace, break open any doors in order to such entry; and any owner or other person that hinders or obstructs any work-

Power for building owner to make entry on premises to effect works, and with aid of constable to break open doors.

Penalty on persons obstructing, &c.

man employed for any of the purposes aforesaid, or wilfully damages or injures the said work, shall incur for every such offence a penalty not exceeding £10, to be recovered before a justice.

87. [Security to be given by building owner, if required by adjoining owner.]

Consent,
notice, &c.,
how given
where persons
under dis-
ability.

95. Where, in pursuance of this act, any consent is required to be given, any notice to be served, or any other thing to be done by, on, or to any owner under disability, such consent may be given, such notice may be served, and such thing may be done by, on, or to the following persons, on behalf of such persons under disability; that is to say,

By, on, or to a husband, on behalf of his wife :

By, on, or to a trustee, on behalf of his cestuique trust :

By, on, or to a guardian or committee, on behalf of an infant, idiot, or lunatic.

PART IV.
*Miscellaneous
provisions.*
Payment of
expenses by
owners, and
proportions in
which to be
borne.

PART IV.

Miscellaneous Provisions.

97. [Where expenses are to be borne by the owner of any premises the following rules to be observed with respect to the payment of such expenses :

- (1.) The owner immediately entitled in possession, or the occupier, in the first instance to pay such expenses, but no occupier liable to pay more than amount of the rent due or thereafter to accrue due from him in respect of such premises during the period of his occupancy :
- (2.) If more owners than one, every owner liable to contribute in proportion to his interest :
- (3.) If difference arise as to amount of contribution, such difference to be decided by arbitration, in manner directed by the Companies Clauses Consolidation Act, 1845 :
- (4.) If some of the owners cannot be found, the deficiency so arising to be divided amongst the other parties :
- (5.) Occupier paying expenses may deduct from rent ; owner paying more than his proportion may deduct excess from any rent payable by him to any other owner :
- (6.) If default made by owner or occupier in payment of any expenses hereby payable by him in the first instance, or if default made by owner in payment of any other expenses or monies due from

him by way of contribution or otherwise in pursuance of this act, then, in addition to any other remedies hereby provided, such expenses and monies, if arising in respect of any matter within the provisions of the third part of this act, may be recovered as a debt in due course of law, but if arising in respect of any other matter under this act may be recovered in a summary manner.]

98. (1.) A notice, summons, or order may in all cases be served personally : Rules as to service of notices, summonses, and orders.
- (3.) A notice, summons, or order may be served on the owner or occupier of any premises by leaving the same with the occupier of such premises, or with some inmate of his abode, or if there is no occupier by putting up such notice, summons, or order on a conspicuous part of the building or premises to which the same relates ; and it shall not be necessary to name the owner or occupier of such premises ; nevertheless, when the owner of any such premises and his residence, or that of his agent, are known to the party by whom or on whose behalf any notice, summons, or order is intended to be served, it shall be the duty of such party to send every such notice, summons, or order by the post in a registered letter addressed to the residence or last known residence of such owner or of his agent :.....

103. [Penalties under this act, and fees, monies, costs, or expenses directed to be recovered in a summary manner, may be recovered in manner directed by 11 & 12 Vict. c. 43. ; and anything hereby authorized or required to be done by or before a justice, to be done, if arising in respect of any building or wall situate out of the city of London, by or before a metropolitan police magistrate.] Recovery of penalties, &c.

See 2 & 3 Vict. c. 71. ss. 44. 45., ante, pp. 54, 55.

104. [Application of penalties.]

See 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Application of Penalties.

106. [Power to appeal to superior courts.]

Appeal.

Qu. Whether this applies to adjudication as to dangerous structures, under Part II.

107. [Form of appeal.]

Notice of
action, &c.

108. [One month's notice in writing required before suing out any writ or process against any "district surveyor or other person" for anything done or intended to be done under this act, action to be brought within six months; defendant may plead the general issue.]

SECOND SCHEDULE.

Part II.

For inspecting dangerous structures, by direction *s. d.*
of the Commissioners of Police or sewers - 20 0

EXTINGUISHMENT OF FIRES, METROPOLIS.

14 GEO. 3. c. 78.

Constables, &c.
to repair to
buildings on
fire.

85. Upon the breaking out of any fire within the limits aforesaid [*i.e.* the cities of London and Westminster, and the liberties thereof, and the other places within the weekly bills of mortality, and the parishes of Saint Marylebone, Paddington, Saint Pancras, and Saint Luke, Chelsea,] all constables and beadles, upon notice thereof, shall immediately repair to the place where the said fire shall happen, with their staves and other badges of their authority, and shall be aiding and assisting as well in extinguishing the said fires, and causing people to work at the engines, as also in preventing goods being stolen, and shall seize and apprehend all ill-disposed persons that they find stealing or pilfering from the inhabitants; as also the said constables and beadles shall give their utmost assistance to help the inhabitants to remove their goods.

NUISANCES REMOVAL AND DISEASES PREVENTION.

18 & 19 VICT. c. 121.

1. [11 & 12 Vict. c. 123. and 12 & 13 Vict. c. 111. repealed.]

Interpretation
of certain terms
used in this act.

2. In this act the expression "improvement act" means an act for regulating and maintaining the police of, and for draining, cleansing, paving, lighting, watching, and improving a place, and an act for any of those purposes.....

Part I.

PART I.

3. The following bodies shall respectively be the local authority to execute this act in the districts hereunder stated in England :

The local authority to execute this act in places as herein stated.

In any place within which the Public Health Act is or shall be in force, the local board of health :.....*

8. The word "nuisances" under this act shall include—

What are deemed nuisances under this act.

Any premises in such a state as to be a nuisance or injurious to health :

Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul as to be a nuisance or injurious to health :

Any animal so kept as to be a nuisance or injurious to health :

Any accumulation or deposit which is a nuisance or injurious to health :

Provided always, that no such accumulation or deposit as shall be necessary for the effectual carrying on of any business or manufacture shall be punishable as a nuisance under this section, when it is proved to the satisfaction of the justices that the accumulation or deposit has not been kept longer than is necessary for the purposes of such business or manufacture, and that the best available means have been taken for protecting the public from injury to health thereby.

10. Notice of nuisance may be given to the local authority by any person aggrieved thereby, or by any of the following persons ; the sanitary inspector or any paid officer under the said local authority ; two or more inhabitant householders of the parish or place to which the notice relates ; the relieving officer of the union or parish ; any constable or any officer of the constabulary or police force of the district or place ; and in case the premises be a

Notice of nuisances to be given to local authority, &c. to ground proceedings.

* Sect. 134. of 18 & 19 Vict. c. 120., *ante*, p. 255., (the Metropolis Local Management Act,) enacts that every vestry and district board under that act shall execute within their respective parish or district all the duties and powers exercisable under the Nuisances Removal and Diseases Prevention Act, 1848, and the Nuisances Removal and Diseases Prevention Act, 1849 [11 & 12 Vict. c. 123 and 12 & 13 Vict. c. 111., which are repealed by s. 1. of 18 & 19 Vict. c. 121.] and shall be the local authority to execute any act passed or to be passed in the present session amending or repealing the said acts, and see 23 & 24 Vict. c. 77. ss. 6. 11., *post*, p. 270, 271.

This enactment in effect applies to all places within the Metropolitan Police District, except Woolwich, which has a local board of health, and except the places mentioned in schedule C. to 18 & 19 Vict. c. 120.

For the limits of 18 & 19 Vict. c. 120., see the notice of that act, *ante*, p. 250.

Sect. 3. of the act in the text (18 & 19 Vict. c. 121.) is repealed by 23 & 24 Vict. c. 77. s. 1. But so much as is above set out is re-enacted by s. 2.

common lodging house, any person appointed for the inspection of common lodging houses; and the local authority may take cognizance of any such nuisance after entry made as herein-after provided, or in conformity with any improvement act under which the inspector has been appointed.

See form of notice, post, p. 270.

Power of
entry.

11. [Power of entry to local authority or their officer, to ascertain existence of nuisance, &c., and to abate nuisance where order for abatement not complied with.]

Proceedings
before justices.

12. [Proceedings by local authority before justices in the case of nuisances; if proved to justices that nuisance exists, &c., they shall issue order for abatement, &c.]

Extended by 23 & 24 Vict. c. 77. s. 13., post, p. 271.

Justices order
for abatement.

13. By their order the justices may require the person on whom it is made to provide sufficient privy accommodation, means of drainage or ventilation, or to make safe and habitable, or to pave, cleanse, whitewash, disinfect, or purify the premises which are a nuisance or injurious to health, or such part thereof as the justices may direct in their order, or to drain, empty, cleanse, fill up, amend, or remove the injurious pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit which is a nuisance or injurious to health, or to provide a substitute for that complained of, or to carry away the accumulation or deposit which is a nuisance or injurious to health, or to provide for the cleanly and wholesome keeping of the animal kept so as to be a nuisance or injurious to health, or if it be proved to the justices to be impossible so to provide, then to remove the animal, or any or all of these things (according to the nature of the nuisance), or to do such other works or acts as are necessary to abate the nuisance complained of, in such manner and within such time as in such order shall be specified; and if the justices are of opinion that such or the like nuisance is likely to recur, the justices may further prohibit the recurrence of it, and direct the works necessary to prevent such recurrence, as the case may in the judgment of the justices require; and if the nuisance proved to exist be such as to render a house or building, in the judgment of the justices, unfit for human habitation, they may prohibit the using thereof for that purpose, until it is rendered fit for that purpose in the judgment of the justices; and on their being satisfied that it has been rendered fit for such purpose, they may determine their previous order by another declaring such

Prohibitive
order against
future nuisance.

house habitable, from the date of which other order such house may be let or inhabited.

14. [Penalty for contravention of order of abatement, 10s. per day; and of prohibition, 20s. per day; and local authority may enter and remove or abate nuisance, at cost of person on whom order made.] Penalty; power to abate nuisance.

15. [Appeal against order of prohibition.] Appeal.

16. [Appeal against order of abatement when structural works are required.]

17. [If person causing nuisance cannot be found, local authority to execute order at once.]

18. [Matter removed to be sold.]

19. [Costs and expenses of works to be paid by person on whom order is made, or owner or occupier.] Expenses of works.

20. [Proceedings before justices to recover expenses.] Recovery of same.

23. Any person or company engaged in the manufacture of gas who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, or aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, shall forfeit for every such offence the sum of £200. Penalty for causing water to be corrupted by gas washings.

See 2 & 3 Vict. c. 47. s. 60. par. 3., ante, p. 31.

24. [Such penalty to be sued for in superior courts within six months.] Recovery of penalty.

25. In addition to the said penalty of £200 (and whether such penalty have been recovered or not), the person or company so offending shall forfeit £20 (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or during which the act by which such water is fouled continues, after the expiration of 24 hours from the time when notice of the offence was served on such person or company by the local authority, or the person into whose water such washing or other substance is brought or flows, or whose water is fouled thereby, and Daily penalty during the continuance of the offence.

such penalty shall be paid to the parties from whom such notice proceeds ; and all monies recovered by a local authority under this or the preceding section shall, after payment of any damage caused by the act for which the penalty is imposed, be applied towards defraying the expenses of executing this act.

Penalty on sale of unwholesome meat, &c.

26. The sanitary inspector may at all reasonable times inspect and examine any carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour exposed for sale, or in the course of or on their way to slaughtering, dressing, or preparation for sale or use, or landed from any ship or vessel ; and in case any such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour appear to him unfit for such food, the same may be seized ; and if it appear to a justice that any such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour is unfit for the food of man, he shall order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such food ; and the person to whom such carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, or flour belongs, or in whose custody the same is found, shall be liable to a penalty not exceeding £10 for every carcase, fish, or piece of meat, flesh, or fish, or any poultry or game, or for the parcel of fruit, vegetables, corn, bread, or flour so found.

As to nuisances arising in cases of noxious trades, businesses, processes, or manufactures.

27. If any candle house, melting house, melting place, or soap house, or any slaughter house, or any building or place for boiling offal or blood, or for boiling, burning, or crushing bones, or any manufactory, building, or place used for any trade, business, process, or manufacture causing effluvia, be at any time certified to the local authority by any medical officer, or any two legally qualified medical practitioners, to be a nuisance or injurious to the health of the inhabitants of the neighbourhood, the local authority shall direct complaint to be made before any justice, who may summon before any two justices in petty sessions assembled at their usual place of meeting the person by or in whose behalf the work so complained of is carried on, and such justices shall inquire into such complaint, and if it appear to such justices that the trade or business carried on by the person complained against is a nuisance, or causes any effluvia injurious to the health of the inhabitants of the neighbourhood, and that such person has not used the best practicable means for abating such nuisance or preventing or counteracting such effluvia, the person so offending (being the owner or occupier of the premises, or

being a foreman or other person employed by such owner or occupier,) shall, upon a summary conviction for such offence, forfeit a sum of not more than £5 nor less than 40s., and upon a second conviction for such offence the sum of £10, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed £200: Provided always, that the justices may suspend their final determination in any such case, upon condition that the person so complained against undertake to adopt, within a reasonable time, such means as the said justices shall judge to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of such effluvia, or shall give notice of appeal in the manner provided by this act, and shall enter into recognizances to try such appeal, and shall appeal accordingly: Provided always, that the provisions herein-before contained shall not extend or be applicable to any place without the limits of any city, town, or populous district.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43., 16 & 17 Vict. c. 128. ss. 1. 5., post, pp. 272, 274, and 19 & 20 Vict. c. 107. s. 3., post, p. 275.

28. [Further proviso giving the party complained against the option of having the matter determined in one of the superior courts.]

29. Whenever the medical officer of health, if there be one, or if none, whenever two qualified medical practitioners, certify to the local authority that any house is so overcrowded as to be dangerous or prejudicial to the health of the inhabitants, and the inhabitants consist of more than one family, the local authority shall cause proceedings to be taken before the justices to abate such overcrowding, and the justices shall thereupon make such order as they may think fit, and the person permitting such overcrowding shall forfeit not exceeding 40s.

On certificate of medical officer to local authority that house is overcrowded, proceedings may be taken to abate the same.

30. [Local authority may direct proceedings, and order costs to be paid out of the rates.]

40. [Appeals under this act to be to quarter sessions.]

41. [Forms to be used as in schedule, or to like effect.]

43. [Nothing in this act to affect the provisions of any local act, nor to impair any power vested in any commissioners of sewers or of drainage, nor to impair any power

Act not to impair jurisdiction of sewers commissioners,

or common law remedies for nuisance, nor jurisdiction of local authority as to the nuisances referred to in this act.

of abating nuisances at common law, nor any jurisdiction in respect of nuisances that may be possessed by any authority under 16 & 17 Vict. c. 128. (Smoke Nuisance Abatement), or the Common Lodging Houses Acts, the Act for the Regulation of Municipal Corporations, the Public Health Act, or any Improvement Act, or any acts incorporated with such acts, and authorities may proceed for the abatement of nuisances, &c., either under the acts mentioned in this section or any other act conferring jurisdiction in respect of the nuisances referred to in this act, or any bye-laws framed under any such act, as they may think fit; and the local authorities constituted under the Common Lodging House Acts, 1851 and 1853, to have for the purposes of those acts all the powers of local authorities under this act.]

SCHEDULE of Forms.

FORM (B.)

Notice of Nuisance.

To the local authority (*describing it*).

I [*or we*], the person aggrieved by the nuisance herein-after described [*or the undersigned and described inhabitant householders, sanitary inspector, or other officer (describing him)*], do hereby give you notice, that there exists in or upon the [*dwelling house, yard, &c., as the case may be*], situate at [*giving such description as may be sufficient to identify the premises*], in the parish of in your district, under the Nuisances Removal Act, 1855, the following nuisance; videlicet [*describing the nuisance, as the case may be; for instance, a dwelling house or building a nuisance or injurious to health for want of a privy or drain or sufficient means of ventilation, or so dilapidated or so filthy as to be a nuisance or injurious to health, or, for further instance, a ditch or drain so foul as to be a nuisance or injurious to health, or an accumulation of a nuisance or injurious to health, &c., or swine so kept as to be a nuisance or injurious to health*]; and that such nuisance is caused by [*naming the person by whose act or default the nuisance is caused, or by some person unknown*].

Dated this day of in the year of
our Lord one thousand eight hundred and

[*Signed by complainant under section 10.*]

23 & 24 VICT. c. 77.

6. [Vestries and district boards of the metropolis under 18 & 19 Vict. c. 120. to continue to be local authorities for execution of the Nuisances Removal Act. (18 & 19 Vict. c. 121.)]

Wells, &c. belonging to any place vested in local authority, &c.

7. All wells, fountains, and pumps provided under section 50 of "The Public Health Act, 1848," or otherwise, for the use of the inhabitants of any place, and not being

the property of or vested in any person or corporation other than officers of such place, shall be vested in the local authority under this act for such place, who shall from time to time cause to be kept in good repair and condition and free from pollution all wells, fountains, and pumps vested in them under this act, and may also keep in good repair and condition and free from pollution other wells, fountains, and pumps dedicated to or open to the use of the inhabitants of such place.

8. If any person do any act whatsoever whereby any fountain or pump is wilfully or maliciously damaged, or the water of any well, fountain, or pump is polluted or fouled, he shall, upon summary conviction of such offence before two justices, forfeit a sum not exceeding £5 for such offence, and a further sum not exceeding 20s. for every day during which such offence is continued after written notice from the local authority in relation thereto; but nothing herein contained shall extend to any offence provided against by section 23 of the said "Nuisances Removal Act."

Penalty for doing damage or fouling water.

11. [Vestries and district boards of the metropolis under 18 & 19 Vict. c. 120. to continue to be the local authorities for the execution of the Diseases Prevention Act. (18 & 19 Vict. c. 116.)]

12. It shall be lawful for the local authority for executing the said "Diseases Prevention Act" to provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any contagious or infectious disease, and to convey such sick and diseased persons as may be residing within such locality to any hospital or other place of destination, and the expense thereof shall be deemed to be an expense incurred in executing the said act.

Local authorities may provide carriages for conveyance of infected persons.

13. Upon complaint before a justice by any inhabitant of any parish or place of the existence of any nuisance on any private premises in the same parish or place, such justice shall issue a summons requiring the person by whose act, default, permission, or sufferance the nuisance arises, or if such person cannot be found or ascertained, the owner or occupier of the premises on which the nuisance arises, to appear before two justices in petty sessions assembled at their usual place of meeting, who shall proceed to inquire into the said complaint, and act in relation thereto as in cases where complaint is made by a local authority under section 12 of the said Nuisances Removal

Justices, on the application of householders, may order the removal of nuisances on private premises.

Act, and as if the person making the complaint were such local authority :

Provided always, that it shall be lawful for the said justices, if they see fit, to adjourn the hearing or further hearing of such summons for an examination of the premises where the nuisance is alleged to exist, and to require the admission or authorize the entry into such premises of any constable or other person or persons, and thereupon the person or persons authorized by the order of the justices may enter and act as the local authority might under a like order made by any justice under section 11 of the said act :

Provided also, that the costs in the case of every such application shall be in the discretion of the justices, and payment thereof may be ordered and enforced as in other cases of summary adjudication by justices :

Any order made by justices under this enactment shall be attended with the like penalties and consequences for disobedience thereof, and subject to the like appeal, as any order made under section 12 of the said Nuisances Removal Act, and the justices making such order may thereby authorize any constable or other person or persons to do all acts for removing or abating the nuisance condemned or prohibited, and for executing such order, in like manner as a local authority obtaining the like order might do under the said act, and to charge the costs to the person on whom the order is made, as is provided in the case where a like order is obtained and executed by such local authority.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

SMOKE NUISANCE, &c. ABATEMENT, METROPOLIS.*

16 & 17 VICT. c. 128.

Furnaces in the metropolis to consume their own smoke.

Penalty for using furnaces otherwise, or carrying on noxious trade, &c.

1. Every furnace employed or to be employed in the metropolis in the working of engines by steam, and every furnace employed or to be employed in any mill, factory, printing house, dyehouse, iron foundry, glasshouse, distillery, brewhouse, sugar refinery, bakehouse, gasworks, waterworks, or other buildings used for the purpose of trade or manufacture within the metropolis, (although a steam engine be not used or employed therein,) shall in all cases be constructed or altered so as to consume or burn the smoke arising from such furnace; and if any person within the metropolis use any such furnace not constructed so as to consume or burn its own smoke, or so negligently use any

* See as to locomotives 24 & 25 Vict. c. 70. s. 8., *post*, p. 293.

such furnace as that the smoke arising therefrom is not effectually consumed or burnt, or carry on any trade or business which occasions any noxious or offensive effluvia, or otherwise annoy the neighbourhood or inhabitants, without using the best practicable means for preventing or counteracting such smoke or other annoyance, every person so offending, being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier, shall, upon a summary conviction for such offence before any justice or justices, pay a sum not more than £5 nor less than 40s., and upon a second conviction for such offence the sum of £10, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction. [Proviso exempting glass and pottery works established before passing of act. *This exemption is repealed by 19 & 20 Vict. c. 107. s. 1., post, p. 275.*]

This enactment is extended to furnaces used in public baths and wash-houses by 19 & 20 Vict. c. 107. s. 2., post, p. 275.

See 18 & 19 Vict. c. 121. s. 27., ante, p. 268.

2. Every steam engine and furnace used in the working of any steam vessel on the Thames above London bridge shall be constructed so as to consume the smoke arising from such engine and furnace; and if any steam engine or furnace by which any steam vessel is worked while the same is above London bridge be not constructed so as to consume or burn its own smoke, or such steam engine or furnace which is so constructed is wilfully or negligently used so that the smoke arising therefrom is not effectually consumed or burnt, the owner or master or other person having charge of such vessel shall, on a summary conviction for such offence before any justice or justices, pay any sum not greater than £5 nor less than 40s., and upon a second conviction for such offence a sum of £10, and upon every other subsequent conviction for such offence a sum double the amount of the penalty imposed for the last preceding conviction.

Steam vessels on the Thames above London bridge to consume their own smoke; penalty.

Extended to vessels plying between London bridge and any place westward of the Nore light by 19 & 20 Vict. c. 107. s. 1., post, p. 275.

3. Provided always, that the words "consume or burn the smoke" shall not be held in all cases to mean "consume or burn all the smoke," and that the justice or justices before whom any person is summoned may remit the penalties enacted by this act if he or they be of opinion that such person has so constructed or altered his furnace

Penalty not to attach where smoke is consumed as far as possible.

as to consume or burn as far as possible all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burned as far as possible the smoke arising from such furnace.

Constables may be empowered to enter and inspect furnaces, &c.

4. If the owner or occupier of any premises or the commander of any steam vessel to which the provisions of this act apply refuse to allow their premises or steam vessel to be inspected by a person duly authorized by the Commissioners of Police for that purpose, it shall be lawful for any constable authorized by warrant under the hand of one of Her Majesty's Principal Secretaries of State, or (in the Metropolitan Police District) by the order in writing of the Commissioners of Police of the Metropolis, or (in the city of London or liberties thereof) by the order in writing of the commissioner of police of the said city and liberties, with or without any assistant, to enter into and upon any building or premises in the metropolis in which any furnace may be, or in which such noxious trade or business may be carried on, or into any steam vessel on the River Thames between London Bridge and Richmond Bridge, and to examine into the construction of such furnace, into the manner of carrying on such trade or business, or into the construction of the steam engine and furnace by which such vessel is worked; and any person obstructing any such constable or his assistant in the execution of any such warrant or order shall, upon a summary conviction for such offence before any justice or justices, pay any sum not exceeding £20.

See 19 & 20 Vict. c. 2. s. 5., ante, p. 2.

No information to be laid except by authority of Secretary of State or Commissioners of Police of Metropolis or city of London.

5. Provided always, that no information shall be laid against any person for the recovery of any penalty under this act, except by the authority of one of Her Majesty's Principal Secretaries of State, or in the Metropolitan Police District by the Commissioners of Police of the Metropolis, or in the city of London or liberties thereof by the commissioner of police of the said city and liberties respectively, acting under the orders and directions of such Secretary of State.

See note on s. 4., ante; and see 19 & 20 Vict. c. 107. s. 3., post, p. 275, as to other nuisances than smoke.

6. ["Metropolis" to have the same meaning as in 15 & 16 Vict. c. 85.]*

* Section 53 of 15 & 16 Vict. c. 85. provides that for the purposes of that act the expression "the metropolis" shall include the cities and liberties of London and Westminster, the borough of Southwark, and the parishes, precincts, townships, and places mentioned in schedule (A.) to that act. This schedule is given in the Appendix (F.)

7. [Act not to affect 14 & 15 Vict. c. xci. or 16 & 17 Vict. c. cxli.] *Saving.*
8. [Penalties to be recoverable under 11 & 12 Vict. c. 43.] *Recovery of penalties.*
See 2 & 3 Vict. c. 71. ss. 44-47., ante, pp. 54-56.

19 & 20 VICT. c. 107.

[16 & 17 Vict. c. 128. recited.]

1. [The provision in recited act whereby certain furnaces in glass works and pottery works were exempted from the operation of the said act repealed]; and all steam vessels plying to and fro between London bridge and any place on the River Thames to the westward of the Nore light shall be subject to the provisions of the said recited act relating to steam vessels above London bridge.*
2. Every furnace employed or to be employed in any public baths and wash-houses in the metropolis, although the same be not used for the purposes of trade or manufacture, is hereby included in and made liable to all the provisions of the said act.
3. And whereas in the said act it was provided that other nuisances besides smoke should be proceeded against at the instigation of one of Her Majesty's Principal Secretaries of State: and whereas by 18 & 19 Vict. cc. 120 & 121, the local authorities are entitled to originate proceedings for the abatement of such nuisances:
- No proceeding shall be taken under the said act, 16 & 17 Vict. c. 128., against other nuisances besides smoke, unless it at any time appear to the Secretary of State that the local authorities fail to proceed actively and impartially in noticing and suppressing such nuisances.

Exemption of glass, &c. works repealed.

Vessels plying between London bridge & Nore light subject to recited act.

Recited act extended to furnaces in public baths and wash-houses.

No proceedings to be taken by Secretary of State under 16 & 17 Vict. c. 128., unless local authorities fail to proceed under 18 & 19 Vict. c. 121.

OFFENCES IN RELATION TO HIGHWAYS.

5 & 6 WILL. 4. c. 50.

5. In the construction of this act the word "surveyor" shall be understood to mean surveyor of the highways, or waywarden; and the word "highways" shall be understood

Interpretation clause.

* Held that a steam vessel not carrying passengers employed in towing ships for hire to and from the various docks upon the Thames between London bridge and the Nore light, but occasionally employed to go eastward of the Nore light, sometimes as far as the Downs, was within the above enactment when towing a ship from Limehouse to Blackwall. *Walker v. Evans*, 6 Jurist, N.S., 71.

to mean all roads, bridges (not being county bridges), carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements.....

Penalty on taking away materials belonging to surveyor.

47. If any person, without the consent of the surveyor, take away materials purchased, gotten, dug, or gathered for the repair or use of any highway, or any materials out of any quarry made, dug, or opened, for the purpose of getting materials for any highway, before the surveyor and his workmen have discontinued working therein for the space of six weeks, (except the owner of any private grounds, and persons authorized by such owner to get materials in such quarry for his own private use, and not for sale,) every person so offending shall for every such offence pay, on conviction thereof, any sum not exceeding £10.

Pits, &c. to be fenced, &c.; penalty.

55. [If surveyor make pits or holes in getting materials, he is to cause them to be fenced off, and within a specified time to cause same to be filled up or sloped down, &c.; penalty for neglect.]

See 2 & 3 Vict. c. 47. s. 60. par. 8., ante, p. 32.

Penalty for allowing heap of stones, &c.

56. [Penalty on surveyor allowing any heap of stone, &c. to remain on highway at night without due precaution to guard against danger to passengers.]

See 2 & 3 Vict. c. 47. s. 60. par. 2., ante, p. 31.

Steam engines, &c. not to be erected within a certain distance of roads.

70. It shall not be lawful for any person to sink any pit or shaft, or to erect or cause to be erected any steam engine, gin, or other like machine, or any machinery attached thereto, within 25 yards, nor any windmill within 50 yards, from any part of any carriageway or cartway, unless such pit or shaft, or steam engine, gin, or other like engine or machinery, be within some house or other building, or behind some wall or fence sufficient to conceal or screen the same from the said carriageway or cartway, so that the same may not be dangerous to passengers, horses, or cattle;

nor shall it be lawful for any person to make or cause to be made any fire for calcining or burning of ironstone, limestone, bricks, or clay, or the making of cokes, within 15 yards from any part of the said carriageway or cartway, unless the same be within some house or other building or behind some wall or fence, sufficient to screen the same from the same carriageway or cartway as aforesaid;

and in case any person offend in any of the cases aforesaid every such person so offending shall pay any sum not exceeding £5 for each and every day such pit, shaft, wind-

mill, steam engine, gin, machine, or fire is permitted to continue contrary to the provisions of this act; which said penalties shall be levied, recovered, and applied in such and the same manner as any penalty or forfeiture for any other offence on any highway may be levied, recovered, and applied :

Provided that nothing herein contained shall be construed to restrain any person or persons from using, repairing, rebuilding, or enlarging any windmill, steam engine, gin, or other like machine, or any kiln or other erection used for the purpose of calcining or burning of ironstone, limestone, bricks, or clay, or the making of cokes, which may have been erected and may be in existence at the passing of this act.

72. If any person wilfully ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers ;

Penalty on persons committing nuisances by riding on foot-paths, &c. ;

or wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle, or carriage of any description, or any truck or sledge, upon any such footpath or causeway ;

or tether any horse, ass, mule, swine, or cattle on any highway, so as to suffer or permit the tethered animal to be thereon ;

or cause any injury or damage to be done to the said highway, or the hedges, posts, rails, walls, or fences thereof ;

by injuring the road, &c. ;

or wilfully obstruct the passage of any footway ;

by obstructing passage of footway ;

or wilfully destroy or injure the surface of any highway ;

or wilfully or wantonly pull up, cut down, remove, or damage the posts, blocks, or stones fixed by the said surveyor as herein directed * ; or dig or cut down the banks which are the securities and defence of the said highways ; or break, damage, or throw down the stones, bricks, or wood fixed upon the parapets or battlements of bridges, or otherwise injure or deface the same ; or pull down, destroy, obliterate, or deface any mile stone or post, graduated or direction post or stone, erected upon any highway ;

by damaging banks, causeways, direction posts, mile-stones, &c. ;

or play at football or any other game on any part of the said highways, to the annoyance of any passenger or passengers ;

playing at football, &c.

* This refers to the stones, posts, and blocks directed by s. 24. to be placed by the surveyor, containing the name of the next market town, &c., marking boundaries, guiding travellers by the safest track through floods, and protecting horse and foot causeways from carriages.

by pitching
tent;

or if any hawker, higgler, gipsy, or other person travelling pitch any tent, booth, stall, or stand, or encamp, upon any part of any highway;

by making
fires;

or if any person make or assist in making any fire, or wantonly fire off any gun or pistol, or set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever within 50 feet of the centre of such carriageway or cartway;

by baiting
bulls;

or bait, or run for the purpose of baiting, any bull, upon or near any highway;

by laying
timber, &c.;

or lay any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other matter or thing whatsoever upon such highway, to the injury of such highway, or to the injury, interruption, or personal danger of any person travelling thereon;

by running of
filth;

or suffer any filth, dirt, lime, or other offensive matter or thing whatsoever to run or flow into or upon any highway from any house, building, erection, lands, or premises adjacent thereto;

by obstructing
passage.

or in any way wilfully obstruct the free passage of any such highway;

every person so offending in any of the cases aforesaid shall for each and every such offence pay any sum not exceeding 40s., over and above the damages occasioned thereby.

See also 2 & 3 Vict. c. 47. ss. 54. 60., ante, pp. 26, 30, and the references thereon.

Disposal of
matters laid
on highway.

73. [If matters laid on any highway so as to be a nuisance be not removed on notice from surveyor, he may dispose of same by order of a justice.]*

See 2 & 3 Vict. c. 47. s. 60. par. 2., ante, p. 31.

Surveyor to
impound cattle
wandering
on highways
until the
penalty herein
imposed and the
charges are
paid.

74. If any horse, ass, sheep, swine, or other beast or cattle of any kind at any time be found wandering, straying, or lying, or being depastured on any highway or on the sides thereof, without a keeper, (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground,) any surveyor or any other person authorized by him, is hereby required to seize and impound every such horse, ass, sheep, swine, or other beast or cattle in the common pound (if any) of the parish where the same is found, or in such other place as the surveyor shall have provided or shall provide for that purpose, and the said horse, ass, sheep, swine, or other beast or cattle

* This section does not make it incumbent on the surveyor to remove nuisances; per Parke B., *Morgan v. Leach*, 10 Meeson & Welsby's Rep., 561.

there to detain until the owner thereof shall, for every and each horse, ass, sheep, swine, or other beast or cattle so impounded, pay any sum not exceeding 1s., together with the reasonable charges and expenses, such charges and expenses to be settled by any two justices, of impounding and keeping the same, to the surveyor of the parish in which the beast so impounded has been found, the said sum so paid for each beast to be applied to the repair of the said highway; and in case the said penalty, charges, and expenses be not paid within five days after such impounding, (notice being thereof first given to the owner, if known at the time,) it shall and may be lawful for any two justices to order every such horse, ass, sheep, swine, or other beast or cattle to be sold, except where it is made to appear to such justices that the horse, ass, sheep, swine, or other beast or cattle impounded escaped from any inclosure by any gate or fence being wilfully or negligently left open or destroyed by any person not being owner of such inclosure, nor employed by such owner, or that it arose from accident and was not wilful, in which case such justices may remit the said penalty; and the money arising from such sale, after deducting the said penalty, and charges and expenses of impounding, keeping, and selling every such horse, ass, sheep, swine, or other beast or cattle, shall be paid to the person whose property the same so sold shall appear to have been; and in case the owner thereof be not known, and no application be made for the money arising from such sale within one calendar month after such sale has taken place, the said money shall be applied, after deducting the said charges and expenses, in the same manner as the said penalty of 1s. is herein directed to be applied:

Provided always, that no owner of any horse, ass, sheep, swine, or other beast or cattle impounded as aforesaid, shall in any case pay more than the sum of 20s., over and above the charges and expenses of impounding and keeping the same, for any number of horses, asses, sheep, swine, or other beast or cattle impounded at one time; and provided always, that nothing in this act shall be deemed, taken, or construed to extend to take away any right of pasturage which may exist on the sides of any highway.

See 2 & 3 Vict. c. 47. s. 54. par. 2., ante, p. 26, and 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

75. In case any person release or attempt to release any horse, ass, sheep, swine, or other beast or cattle seized for the purpose of being impounded under the authority of this act, from the pound or place where the same is so impounded, or in the way to or from any such pound or place, or pull

Limiting the extent of penalty.

Right of pasturage not taken away.

Punishing persons guilty of pound-breach, &c.

down, damage, or destroy the same pound or place, or any part thereof, or any lock or bolt belonging thereto or with which the same is fastened, or rescue or release, or attempt to rescue or release, any distress or levy made under the authority of this act, until or before such horse, ass, sheep, swine, or other beast or cattle, seized or so impounded, or such distress or levy so made, be discharged by due course of law, every person so offending shall, upon conviction thereof before any two justices, either upon confession of the party or parties offending, or upon oath of one credible witness, pay any sum not exceeding £20, at the discretion of the said justices and in default thereof be committedto the house of correction, there to be kept to hard labour for not exceeding three calendar months.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Names of owners to be painted on all waggons, &c. in the manner herein mentioned.

76. The owner of every waggon, cart, or other such carriage shall paint or cause to be painted in one or more straight line or lines, upon some conspicuous part of the right or off side of his waggon, cart, or other such carriage, or upon the off-side shafts thereof, before the same is used on any highway, his christian name and surname, or the style and title by which he is commonly designated, and the place of his trade or abode, or the christian and surname and place of trade or abode of a partner or owner thereof, at full length, in large legible letters in white upon black, or black upon white, not less than one inch in height, and continue the same thereupon so long as such waggon, cart, or other such carriage is used upon any highway; and every owner of any waggon, cart, or other such carriage who uses or allows the same to be used on any highway without the name and descriptions painted thereon as aforesaid, or who suffers the same to become illegible, or who paints or causes to be painted any false or fictitious name or place of trade or abode on such waggon or cart or other such carriage, shall pay, on conviction, for every such offence, a sum not exceeding 40s., with or without costs, as the justices before whom the conviction takes place think fit.

See also 1 & 2 Will. 4. c. 22. ss. 59, 60., ante, p. 79, and 6 & 7 Vict. c. 86. s. 4., ante, p. 99., and note on s. 75., supra.

One driver may take charge of two carts, provided they are drawn only by one horse each.

77. No one person shall act as the driver of more than two carts, waggons, or other such carriages on any highway: Provided always, that it shall and may be lawful for any one person to act as the driver of two carts, waggons, or other such carriages on any highway, and for such carts to pass and travel on any highway being only under the care and superintendence of such single person: Provided always

that such carts, waggons, or other carriages, when under the care of only one person, shall not be drawn by more than one horse each, and the horse of the hinder cart, waggon, or other carriage shall be attached by a rein in length not exceeding four feet to the back of the cart, waggon, or other carriage which shall be foremost; and in case the said horse be not so attached, the driver of the said carts, waggons, or other carriages shall forfeit, on conviction, the sum of 20s., to be recovered as other penalties are by this act to be recovered.

See 2 & 3 Vict. c. 47. s. 54. par. 4., ante, p. 27.

78. If the driver of any waggon, cart, or other carriage of any kind ride upon any such carriage, or upon any horse or horses drawing the same, on any highway, not having some other person on foot or on horseback to guide the same (such carriages and carts as are driven with reins, and are conducted by some person holding the reins of all the horses drawing the same, excepted);

Drivers of waggons or carts not to ride thereon unless some other person guide them.

or if the driver of any carriage whatsoever on any part of any highway shall by negligence or wilful misbehaviour cause any hurt or damage to any person, horse, cattle, or goods conveyed in any carriage, passing or being upon such highway, or shall quit the same, and go on the other side of the hedge or fence inclosing the same, or negligently or wilfully be at such distance from such carriage, or in such a situation whilst it is passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same, or leave any cart or carriage on such highway so as to obstruct the passage thereof,

Drivers causing hurt or damage to others, or quitting the road;

See also 2 & 3 Vict. c. 47. s. 54., par. 4., ante, p. 27, and 6 & 7 Vict. c. 86. s. 28., ante, p. 106., and the references thereon.

or if any person drive or act as the driver of any waggon, cart, or other such carriage, not having the owner's name as hereby required painted and remaining legible thereon, and refuse to tell or to discover the true christian and surname of the owner or principal owners of such waggon, cart, or carriage;

or driving carriage without owner's name;

See 1 & 2 Will. 4. c. 22. s. 60., ante, p. 79.

or if the driver of any waggon, cart, or other carriage whatsoever, or of any horses, mules, or other beast of draught or burden, meeting any other waggon, cart, or other carriage, or horses, mules, or other beasts of burden, do not keep his waggon, cart, or carriage, or horses, mules, or other beasts of burden, on the left or near side of the road;

or not keeping the left or near side;

or if any person in any manner wilfully prevent any other person from passing him, or any waggon, cart, or other

or interrupting free passage;

carriage, or horses, mules, or other beasts of burden, under his care, upon such highway, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any person, waggon, cart, or other carriage, or horses, mules, or other beasts of burden, on any highway, or do not keep his waggon, cart, or other carriage, or horses, mules, or other beasts of burden, on the left or near side of the road, for the purpose of allowing such passage ;

or riding or driving furiously.

or if any person riding any horse or beast, or driving any sort of carriage, ride or drive the same furiously so as to endanger the life or limb of any passenger ;

See also 2 & 3 Vict. c. 47. s. 54., par. 5., ante, p. 27., 6 & 7 Vict. c. 86. s. 28., ante, p. 106, and 24 & 25 Vict. c. 100. s. 35., post, p. 519.

if not the owner, to forfeit not exceeding £5., if he be the owner, not exceeding £10.

every person so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession, the view of a justice, or by the oath of one or more credible witnesses before any two justices, shall, in addition to any civil action to which he may make himself liable, for every such offence forfeit any sum not exceeding £5, in case such driver be not the owner of such waggon, cart, or other carriage, and in case the offender be the owner of such waggon, cart, or other carriage, then any sum not exceeding £10, and in either of the said cases shall, in default of payment, be committed to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding six weeks, unless such forfeiture shall be sooner paid ;

and every such driver offending in either of the said cases shall and may, by the authority of this act, with or without any warrant, be apprehended by any person who sees such offence committed, and shall be conveyed before any justice, to be dealt with according to law ;

Proceeding if driver will not discover his name.

and if any such driver in any of the cases aforesaid refuse to discover his name, it shall and may be lawful for the said justice before whom he is taken, or to whom any such complaint is made, to commit him to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three months, or to proceed against him for the penalty aforesaid by a description of his person and the offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name.*

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

* Where the driver of a waggon committed an offence within 13 Geo. 3. c. 78. s. 60., in the view of a justice, (by riding on the waggon, there being no person on foot or horseback to guide it,) and having placed himself before the board on which the owner's name was painted, so as to prevent the discovery of the owner, the justice, in order to ascertain the name, stopped the horses, and

79. And whereas offences may be committed against this act by persons whose names are unknown to the surveyor, assistant surveyor, or district surveyor; For securing unknown offenders.

It shall be lawful for the surveyor, assistant surveyor, or district surveyor, or any person acting under his authority, and such other person as he calls to his assistance, or any other person witnessing the commission of the offence, without any other authority than this act to seize and detain such unknown person who commits any such offence, and take him forthwith before any justice, who shall proceed and act with respect to such offence according to the provisions of this act.

See 2 & 3 Vict. c. 47. s. 54., ante, p. 29.

97. [Justices empowered to award costs.]

See 2 & 3 Vict. c. 71. s. 31., ante, p. 49.

101. [Justices may proceed by summons in the recovery of penalties.]

See 2 & 3 Vict. c. 71. ss. 19. 21., ante, pp. 44, 45.

102. [Compelling witnesses to attend and give evidence.]

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

103. [Forfeitures, costs, and charges may be levied by distress and sale; application of penalties.]

See 2 & 3 Vict. c. 71. ss. 45. 47., ante, pp. 55, 56.

105. [Appeal may be made to quarter sessions against conviction.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

109. [Actions for acts done under this act not to be brought without 21 days notice in writing, nor after satisfaction made or tendered, nor after three months; venue; defendant may plead general issue; if act done under this act, or due notice not given, &c., defendant to have a verdict; and if verdict found for defendant, or plaintiff become nonsuit, &c., defendant to have costs as between attorney and client.] Notice of action, &c.

But see 5 & 6 Vict. c. 97. ss. 2. 4., post, p. 413.

110. The several fees hereafter limited, and no others, shall be taken by the clerk of the peace, clerk to the justices, Amount of fees.

laid hands on the driver, and removed him from his position before the board, and thereby informed himself of the ownership—Held on demurrer that this was a trespass, and gave the driver a right of action. *Jones v. Owen*, 2 Dowl. & Rylands Rep., 600.

The enactment set out in the text corresponds so far as material for the purposes of the application of the above decision with the enactment there referred to, which is repealed by 5 & 6 Will. 4. c. 50. s. 1.

or others, for their several respective services in the execution of this act; (that is to say,) 6*d.* for every information; 1*s.* for every summons or warrant, and 6*d.* for the service thereof; 6*d.* for every notice, and 6*d.* for the service thereof; 1*s.* for every order, and 6*d.* for the service thereof; 2*s.* for every warrant of distress; 1*s.* for every appointment; and 2*s.* for every conviction.

[Proviso as to amount of fees in proceedings for recovery of rates in any place regulated by a local act.]

Savings.

112. [Saving of 57 Geo. 3. c. xxix.]

113. [Act not to extend to turnpike roads, except where expressly mentioned, or to roads, &c. which may be paved, repaired, cleansed, broken up, or diverted under any local or personal act.]

115. [Act not to affect the city of London.]

OFFENCES IN RELATION TO TURNPIKE ROADS.

3 GEO. 4. c. 126.

Pits, &c. to be fenced, &c.; penalty.

99. [If pits or holes be made by surveyor in getting materials, he is to cause them to be fenced, and within a specified time to cause them to be filled up, or sloped down, &c.; penalty for neglect.]

See 2 & 3 Vict. c. 47. s. 60. par. 8., ante, p. 32.

Penalty on persons committing nuisances, by riding on footpaths,

121. If any person ride upon any footpath or causeway, by the side of any turnpike road, made or set apart for the use or accommodation of foot passengers;

or lead or drive any horse, ass, mule, swine, or cattle, or carriage of any description, or any wheelbarrow, truck, or sledge, or any single wheel of any waggon, cart, or carriage, apart therefrom, upon any such footpath or causeway;

or cause any injury or damage to be done to the same, or the hedges, posts, rails, or fences thereof;

by damaging bridge, &c.;

or wilfully pull down or damage any bridge, wall, or any other building or erection made by the trustees or commissioners of any turnpike road, or repaired or repairable by them;

by drawing timber, &c.;

or haul or draw or cause to be hauled or drawn upon any part of such turnpike road any timber, stone, or other thing, otherwise than upon wheeled carriages;

or suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such road to the prejudice thereof;

or use any tipstick, joggle, or other instrument for the purpose of retarding the descent of any cart or other carriage down any hill, in such manner as to destroy, injure, or disturb the surface of any turnpike road ;

by injuring the road ;

or in or upon such road, or by the side or sides thereof, or in any exposed situation near thereto, kill, slaughter, singe, scald, burn, dress, or cut up any beast, swine, calf, lamb, or other cattle ;

by slaughtering of cattle ;

or if any person driving any horse or other beast on the said road, carrying any iron bar or rod, basket or pannier, or any other matter or thing, place such bar or rod, basket or pannier, matter or thing, so that the same or any of them shall project more than 30 inches from the side of such horse or other beast, or so as in any manner to obstruct or impede the passage of any person, or any horse, beast, or carriage travelling along such turnpike road ;

by obstructing passage of travellers ;

or if any hawker, higler, gipsy, or other person or persons travelling with any machine, vehicle, cart, or other carriage, with or without any horse, mule, or ass, pitch any tent, booth, stall, or stand, or encamp upon or by the sides of any part of any turnpike road ;

by pitching tent ;

or if any blacksmith, or other person occupying a blacksmith's shop, situate near any turnpike road, and having a window or windows fronting the said road, do not, by good and close shutters every evening after it becomes twilight, bar and prevent the light from such shop shining into or upon the said road ;

by light of blacksmiths shop ;

or if any person or persons make or assist in making any fire or fires commonly called bonfires, or set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever within 80 feet of the centre of such road ;

by making bonfires, &c. ;

or bait or run for the purpose of baiting any bull, or play at football, tennis, fives, cricket, or any other game or games upon such road, or on the side or sides thereof, or in any exposed situation near thereto, to the annoyance of any passenger or passengers ;

by baiting bulls, playing at football, or other games ;

or if any person leave any waggon, wain, cart, or other carriage whatever upon such road, or on the side or sides thereof, without any proper person in the sole custody or care thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident for a longer time than may be necessary to remove the same ;

by leaving waggons, &c. ;

or shall not place such waggon, wain, or other carriage during the time of loading or unloading the same, or of taking refreshment, as near to one side of the road as con-

veniently may be, either with or without any horse or beast of draught harnessed or yoked thereto ;

by laying
timber, &c. ;

or shall lay any timber, stone, hay, straw, dung, manure, soil, ashes, rubbish, or other matter or thing whatsoever upon such road, or on the side or sides thereof, -or the foot-paths or causeways adjoining, to the prejudice of such road or footways, or to the prejudice, annoyance, interruption, or personal danger of any person or persons travelling thereon ;

by running of
water or filth ;

or suffer any water, filth, dirt, or other offensive matter or thing whatsoever to run or flow into or upon such road or footpaths, from any house, building, erection, lands, or premises adjacent thereto ;

by swine ;

or if any person driving any pigs or swine upon such road suffer such pigs or swine to root up or damage such road, or the fences, hedges, banks, or copse on either side thereof respectively ;

by leaving
block stones,
&c. ;

or if any person, after having blocked or stopped any cart, waggon, or other carriage in going up a hill or rising ground, cause or suffer to be or remain on such road the stone or other thing with which such cart or other carriage shall have been blocked or stopped ;

or by damaging
lamps, &c.

or if any person or persons pull down, damage, injure, or destroy any lamp or lamp post put up, erected, or placed in or near the side of any turnpike road or toll house erected thereon, or extinguish the light of any such lamp ;

every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding 40*s.* over and above the damages occasioned thereby.

See 4 Geo. 4. c. 95. ss. 72, 73., post, pp. 290, 291, and 7 & 8 Geo. 4. c. 24. ss. 6. 16., post, p. 293 ; see also 2 & 3 Vict. c. 47. ss. 54. 60., ante, pp. 26, 30, and the references thereon.

122. [Surveyors to impound cattle found straying on the roads.]

Repealed by 4 Geo. 4. c. 95. s. 74 : See s. 75., post, p. 292.

Provision as to
use of skid-
pans.

126. [Trustees or commissioners at any meeting to be held for that purpose, on 10 days notice in writing of such meeting being affixed upon the turnpike gates on the road, may from time to time, as they think fit, order and direct that in cases of any waggon or cart descending a hill with either of the wheels locked, a skid-pan or slipper shall be used at the bottom of such wheel while so locked ; and trustees or commissioners may repeal, alter, or renew such order as they think necessary ; and whilst any such order is in force, every person who drives any waggon or cart down any hill with either of the wheels locked, and without

using such skid-pan or slipper in manner aforesaid, for every such offence to pay any sum not exceeding 20s ; provided always, that a copy of such order be affixed on all the turnpikes standing on such road for 30 days at least before being in force.]

129. [Names of owners to be painted on waggons or other carriages in the manner herein mentioned.]

Repealed by 4 Geo. 4. c. 95. s. 14 : See s. 15., post. p. 290.

130. [One driver may take charge of two carts, provided they are drawn only by one horse each. This not to extend to carts within 10 miles of London or Westminster.]

See 2 & 3 Vict. c. 47. s. 54. par. 4., ante, p. 27.

131. No cart or waggon travelling on any turnpike road shall be driven by any person or persons who shall not be of the full age of 13 years, under a penalty not exceeding 10s., to be paid by the owner of such cart or waggon.

132. If the driver of any waggon or cart of any kind ride upon any such carriages* in any turnpike road, not having some other person on foot or on horseback to guide the same (such light carts as are usually driven with reins, and are then conducted by some person holding the reins of the horse or horses, nor being more than two, drawing the same, excepted) ;

or if the driver of any carriage whatsoever on any part of any turnpike road shall, by negligence or wilful misbehaviour, cause any hurt or damage to any person or carriage passing or being upon such road, or shall quit the road and go on the other side* the hedge or fence inclosing the same, or wilfully be at such distance from such carriage, or in such a situation whilst it shall be passing upon such turnpike road, that he cannot have the direction and government of the horses or cattle drawing the same ;

See also 2 & 3 Vict. c. 47. s. 54., par. 4., ante, p. 27, and 6 & 7 Vict. c. 86. s. 28., ante, p. 106, and the references thereon.

or if any person drive or act as the driver of any such coach, postchaise, or other carriage let for hire, or waggon, wain, or cart, not having the owner's name as hereby required painted thereon, or refuse to discover the true christian and surname of the owner or principal owners of such respective carriage ;

As to carriages, this seems virtually repealed by 4 Geo. 4. c. 95. s. 14 : See 1 & 2 Will. 4. c. 22. s. 60., ante, p. 79.

or if the driver of any waggon, cart, coach, or other carriage whatsoever, meeting any other carriage, shall not keep his or her carriage on the left or near side of the road ;

As to one driver taking charge of two carts.

Children not to drive carts, &c. on penalty of 10s.

Drivers of waggons, &c. not to ride thereon unless some other person on foot guide the same ;
* Sic.

drivers of any carriage causing hurt or damage to others ;
* Sic.
or quitting the road ;

or driving carriage without owner's name ;

or not keeping the left or near side ;

or interrupting
free passage;

or if any person shall in any manner wilfully prevent any other person or persons from passing him or her, or any carriage under his or her care upon such road, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any carriage, or of His Majesty's subjects, on any turnpike road;

the driver, if
not the owner,
to forfeit 40s.,
if he be the
owner, £5.

every such driver so offending in any of the cases aforesaid, and being convicted of any such offence, either by his own confession, the view of a justice, or by the oath of one or more credible witness or witnesses before any justice of the limit where such offence shall be committed, or where such offender shall be apprehended, shall for every such offence forfeit any sum not exceeding 40s. in case such driver be not the owner of such carriage; and in case the offender be the owner of such carriage, then any sum not exceeding 5*l.*; and in either of the said cases shall, in default of payment, be committed to the house of correction for any time not exceeding one month, unless such forfeiture shall be sooner paid;

and every such driver offending in either of the said cases shall and may, by the authority of this act, with or without any warrant, be apprehended by any person or persons who shall see such offence committed, and shall be conveyed before some justice, to be dealt with according to law;

Penalty on
driver not dis-
covering his
name.

and if any such driver, in any of the cases aforesaid, shall refuse to discover his name, it shall and may be lawful for the justice before whom he shall be taken, or to whom any such complaint shall be made, to commit him to the house of correction for any time not exceeding three months, or to proceed against him for the penalty aforesaid, by a description of his person and the offence only, without adding any name or designation, but expressing in the proceedings that he refused to discover his name.

See the foot note to 5 & 6 Will. 4. c. 50. s. 78., ante, p. 282.

Persons resist-
ing the execu-
tion of this act,
or assaulting
collectors, to
forfeit not ex-
ceeding £10.

139. In case any person or persons shall resist or make forcible opposition against any person or persons employed in the due execution of this act or any particular act made for amending any turnpike road, or shall assault any surveyor, or any collector or collectors of the tolls, in the execution of his or their office or offices, or shall pass through any turnpike gate or gates, rail or rails, chain or chains, or other fence or fences set up or to be set up by authority of Parliament, without paying the toll appointed to be paid at

such gate or other fence,* or shall hinder or make any rescue of cattle or other goods distrained by virtue of this act, every such person offending therein shall for every such offence forfeit any sum not exceeding £10, at the discretion of the justice or justices before whom he or she shall be convicted.

See 9 Geo. 4. c. 77. s. 17., post, p. 293.

140. And whereas offences may be committed against this act, or other acts for repairing and maintaining turnpike roads, by persons unknown to the collectors or other officers :

For securing
transient
offenders.

It shall be lawful for any of the trustees or commissioners of any turnpike road, or their clerk or clerks, or their collectors, surveyors, or other officers respectively, and such other person or persons as he or they shall call to his or their assistance, without any warrant or other authority than this act, to seize and detain any unknown person or persons who shall commit any such offence or offences, and take him, her, or them before any justice for the county, district, or place near to the place where the offence or offences shall be committed, or such offender or offenders shall be seized and apprehended ; and such justice and justices shall and is and are hereby required to proceed and act with respect to such offender or offenders according to the provisions of this or any other acts for repairing turnpike roads.

See also 2 & 3 Vict. c. 47. s. 54., ante, p. 26.

141. [Penalties recoverable before any justice. Application thereof.]

Recovery, &c.
of penalties.

See 2 & 3 Vict. c. 71. ss. 34. 45. 47., ante, pp. 50, 55, 56.

142. [Justices may mitigate penalties.]

Mitigation.

See 2 & 3 Vict. c. 71. s. 35., ante, p. 50.

143. [Prosecutors may recover by information, or by action, &c., a penalty exceeding £20.]

As to penalties
exceeding £20.

145. [Appeal to quarter sessions, &c.]

Appeal.

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

147. [Actions for acts done under this act to be brought within three months ; venue ; defendant may plead the general issue ; if act done under this act, defendant to have

Limitation of
actions, &c.

* Quære, whether this enactment is applicable to a party passing without violence through a gate, and not paying the toll, though demanded, under an erroneous impression that he is exempt from toll. Per Lord Denman, C. J., and Erle, J., it is not ; per Patteson and Coleridge, J.J., it is. *Regina v. Irving*, 12 Queen's Bench Rep. 429.

a verdict; and if verdict found for defendant, or plaintiff be nonsuited, &c., defendant to have treble costs.]

But see 5 & 6 Vict. c. 97. s. 2., post, p. 413.

148. [Forms in the schedule annexed may be used.]

See 2 & 3 Vict. c. 71 s. 48., ante, p. 56.

Saving.

149. [Act not to extend to Commercial Road, and branches of road leading from and out of same, authorized to be made and repaired by acts of 43, 44, 46, 49, and 51 Geo. 3.]

4 GEO. 4. c. 95.

14. [3 Geo. 4. c. 126. s. 129. repealed.]

Names of
owners to be
painted on
waggons, &c.

* Sic.

15. The owner or owners of every waggon, wain, or cart or other such carriage shall paint or cause to be painted, in one or more straight line or lines upon some conspicuous part of the right or off side of his, her, or their waggon, wain, or cart or other such carriage, or upon the off-side shafts* thereof, before the same is used on any turnpike road, his, her, or their christian and surname, and the place of his, her, or their abode, or the christian and surname, and place of abode of the principal partner or owner thereof, at full length in large legible letters not less than one inch in height, and continue the same thereupon so long as such waggon, wain, cart or other such carriage is used upon any turnpike road;

and every owner and proprietor of any waggon, wain, or cart or other carriage who uses or allows the same to be used on any turnpike road without the names and descriptions painted thereon as aforesaid, or who paints or causes to be painted any false or fictitious name or place of abode on such waggon, wain, or cart or other carriage, shall pay for every such offence a sum not exceeding £5.

See also 1 & 2 Will 4. c. 22. ss. 59, 60., ante, p. 79, and 6 & 7 Vict. c. 86. s. 4., ante, p. 99, and (as to locomotives) 24 & 25 Vict. c. 70. s. 12., post, p. 295.

Offences in
relation to
turnpike roads;
by injuring
toll-table;

by injuring
fences;

72. If any person or persons whomsoever wilfully pull down, break, injure, or damage any table of tolls put up or fixed at any toll-gate or bar on any part of any turnpike road, or wilfully or designedly deface or obliterate any of the inscriptions, letters, figures, or marks thereon;

or if any person or persons wilfully pull up, throw down, break, injure, or damage any posts, rails, or fences placed or to be placed or put up by order of any trustees or commissioners of any turnpike road, or their surveyor or

surveyors, either by the side or sides of such road, or at or near to any pit or quarry used, opened, or made for the getting of stones, gravel, or other materials for the purposes thereof, in order to prevent accidents ;

or if any person or persons wilfully cause any damage or injury to be done to any bridge, arch, wall, or other building or erection to be set up or erected by virtue of any act on any part of any turnpike road, or by the side or sides thereof ;

by injuring erections ;

or if any person or persons cast or throw any earth or rubbish or other matter or thing into any drain, ditch, culvert, tunnel, or other watercourse made by virtue of any act, so as to obstruct the water from running or draining off any turnpike road ;

by injuring drains, &c. ;

or if any person or persons, without being thereto authorized by the surveyor or surveyors for the time being acting under any act, shovel up, scrape, gather, or carry away any stones, gravel, sand, or other materials, slutch, dirt, mire, drift, or soil from off any footpath or causeway, or any other part of such road ;

by carrying away road materials, &c.

or if any person in any manner wilfully prevent any other person or persons from passing him, or any carriage under his care upon any such road ;

by interrupting free passage ;

or if any such person dig, make, or use any pit or pits for sawing of timber or wood within thirty feet of the centre of any such turnpike road, unless where inclosed by a fence from any such road ;

by making saw pits ;

every person offending in any of the cases aforesaid shall forfeit a sum not exceeding 40s. for every such offence ; and one moiety of such penalties shall be paid to the informer, and the other moiety thereof shall be paid to the treasurer of the trustees or commissioners of such turnpike road, and applied towards the repair of such road.

Penalty.

But see 2 & 3 Vict. c. 47. s. 60., par. 3., ante, p. 31., and c. 71. ss. 34., 47., ante, pp. 50, 56.

73. In case the driver of any waggon, cart, or of any coach or other carriage offend against any of the provisions of any act for making or maintaining any turnpike road, or the said recited act (3 Geo. 4. c. 126.) or this act, whereby any penalty shall be incurred, and refuse to give his name, or abscond or absent himself so as not to be found, then it shall and may be lawful for any justice before whom complaint is made, and he is hereby required, to issue a summons requiring the owner of such waggon, cart, or other carriage to appear before him to answer the matter of such complaint ; and if such owner refuse or

If driver offend against the provisions of any act, and abscond, the master to pay the penalty.

neglect to appear, or appearing do not then or within 10 days thereafter produce the driver so offending, or disclose his name and place of abode, then the said justice or any other justice, on an examination of the circumstances, and ascertaining, by the examination of witnesses on oath, that such offence has been committed by any such driver of any waggon, cart, or other carriage, shall order and adjudge that the penalty incurred by such driver shall be paid by the owner of such waggon, cart, or other carriage; which penalty shall be recovered and applied in manner directed by the said recited act.

74. [3 Geo. 4. c. 126. s. 122. repealed.]

Cattle found
straying on
roads may be
impounded.

75. If any horse, ass, sheep, swine, or other beast or cattle of any kind, shall at any time be found tethered, or wandering, straying, or lying about any turnpike road or on any part thereof, (except on such parts of any road as lead or pass through or over any common or waste or uninclosed ground,) it shall and may be lawful for any surveyor of the road where the same shall be found, or any other person or persons whomsoever, to seize and impound every such horse, ass, sheep, swine, or other beast or cattle in the common pound (if any) of the parish, township, tithing, or place where the same shall be found, or in such other place as the trustees or commissioners of the road where the same shall be found shall have provided or shall provide for that purpose, and the said horse, ass, sheep, swine, or other beast or cattle there to detain until the owner or owners thereof shall, for every and each horse, ass, sheep, swine, or other beast or cattle so impounded, pay the sum of 2s., together with the reasonable charges and expenses of impounding and keeping the same to the treasurer, clerk, or surveyor of the road on which the beast so impounded shall have been found, the said sum of 2s. for each beast to be applied to the use of and in aid of the tolls of such road;

[in case penalty and expenses not paid within five days after such impounding (notice being thereof first given to the owner) if known at the time, or if not known by affixing written notices at the two next tollgates on the road nearest to the place where the same shall be impounded), lawful for any justice or justices to order such horse, &c to be sold, except where it is made to appear to such justice or justices that the horse, &c. impounded escaped from any inclosure by any gate or fence being wilfully or negligently left open or destroyed by any person not being owner or occupier of such inclosure, or employed by him, in which case justice or justices may remit penalty; the

money arising from sale, after deducting penalty and expenses, to be paid to owner; and if not known, and no application be made for the money arising from sale within 21 days after sale, the money to be applied, after deducting expenses, in same manner as penalty directed to be applied. No owner of any horses, &c. impounded to pay more than £5, above expenses, for any number of horses, &c. impounded at one time. Nothing herein to extend to take away any right of pasturage on the sides of any turnpike roads.]

• See also 2 & 3 Vict. c. 47. s. 54., par. 2., ante, p. 26.

88. [3 Geo. 4. c. 126. incorporated.]

7 & 8 GEO. 4. c. 24.

6. [Trustees to regulate the lighting of toll-houses; penalty on collectors, &c. neglecting to observe orders of trustees]; and in case any person damage or injure any lamp to be placed and set up as aforesaid, or extinguish the lights therein, such person shall forfeit any sum not exceeding 40s. for every such offence.]

Lighting toll-houses; penalty for neglect. Penalty for damaging lamps, &c.

See 3 Geo. 4. c. 126. s. 121., ante, p. 286.; see also 2 & 3 Vict. c. 47. s. 54. par. 16., ante, p. 29., and 18 & 19 Vict. c. 120. s. 206., ante, p. 255

16. If any person shall injure, damage, incumber, ride upon, drive upon, or otherwise use any public footpath or causeway, by the side of and adjacent to any turnpike road, to the prejudice, annoyance, interruption, or personal danger of any person travelling thereon, every person so offending shall be liable to the same penalties in respect of such offences as by the acts herein-before recited [3 Geo. 4. c. 126. and 4 Geo. 4. c. 95.] are imposed in respect of such offences, whether such footpath or causeway be made, maintained, and repaired by the trustees of the turnpike road thereunto adjoining, or by the inhabitants of the parish wherein such footpath or causeway is situated, or by any other person whatever.

Penalties for injuring, &c. footpaths adjoining turnpike road to attach by whomsoever repaired.

20. [3 Geo. 4. c. 126. and 4 Geo. 4. c. 95. incorporated.]

9 GEO. 4. c. 77.

17. If any person or persons shall claim or take the benefit of any of the exemptions mentioned in any local turnpike act, not being entitled to the same, every such person shall for every such offence forfeit any sum not

Penalty for fraudulent claim of exemption from toll.

neglect to appear, or appearing do not the
 10 days thereafter produce the driver so
 disclose his name and place of abode, the
 or any other justice, on an examination
 stances, and ascertaining, by the exam
 on oath, that such offence has been
 driver of any waggon, cart, or o
 and adjudge that the penalty
 shall be paid by the owner of
 carriage; which penalty shall
 manner directed by the said

74. [3 Geo. 4. c. 126.

Cattle found
 straying on
 roads may be
 impounded.

75. If any horse, ass,
 of any kind, shall
 wandering, straying
 on any part there
 lead or pass thro
 closed ground,) AND OTHER
 of the road w 10.
 person or per for locomotives.]
 such horse. enactments as to tolls to be taken
 common weight of locomotives.]

place w^l so the weight on each pair of wheels.]

as the
 shall In case it appear to one of Her Majesty's Principal
 pur Secretaries of State that the use of any particular descrip-
 or of locomotive causes excessive wear and tear of the
highways, or is dangerous or inconvenient to the public,
or that the use of locomotives generally or of any parti-
cular description of locomotive is dangerous or inconvenient
to the public in certain districts or places, it shall be
lawful for such Secretary of State from time to time, by
order under his hand, to prohibit the use of any kind or
description of locomotive specified in such order on any
highway whatsoever, or to prohibit the use of locomotives,
or any specified kind or description thereof, on the high-
ways within any place, district, or limit mentioned in such
order, or otherwise to restrict the use of locomotives as
circumstances may appear to him to require, and from
time to time, by order made as aforesaid, to revoke or alter
any such order previously made; and every order made
under this enactment shall be published in the London
Gazette, and any person using any locomotive contrary to
any such order shall for every such offence, on summary
conviction thereof before two justices, forfeit any sum not
exceeding £10.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

4. c. 24.] TO TURNPIKE ROADS
sale, after deducting penalty, and
owner; and if not known, and
upper arising from sale within
be applied, after deducting
directed to pay in or
of the sum due
to take

Locomotives restricted over suspension and
by locomotives to bridges to be made

Use over
bridges
restricted.
Damage.

propelled by steam or any other
ed on any turnpike road or
ructed on the principle of
ts own smoke; and any
o consuming its own
re any two justices,
every day during
ny such turnpike

Locomotives
propelled by
steam to con-
sume their own
smoke.

e, p. 43.

or any owner of such loco-
person or by his servants, to use any
aggon or carriage, on the turnpike or
ept there be at the least two persons to
duct such locomotive, and if more than two
aggons or carriages be attached to such locomotive,
e person to take charge of such waggons and carriages;
and any person in charge of such locomotive shall provide
two efficient lights, to be affixed conspicuously, one at each
side, on the front of the same, between the hours of one
hour after sunset and one hour before sunrise; and any
person acting contrary hereto shall for every such offence,
on summary conviction thereof before two justices, forfeit
any sum not exceeding £5.

As to the
number of per-
sons in charge
of locomotive
and waggons.

Lights to be
used at night.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

10. [Exemption from tolls of waggons, &c., now exempt
under any general or local act.] Toll exemption.

11. [Speed of locomotives on public highways not to
exceed 10 miles an hour, or through any city, town, or
village 5 miles an hour; and any person acting contrary
hereto shall for every such offence, on summary convic-
tion before two justices, if not the owner of such loco-
motive, forfeit any sum not exceeding £5, and if owner,
any sum not exceeding £10.] Speed regu-
lated.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

12. [Provisions of general acts not repealed relating
to turnpike roads to apply to locomotives]: Provided
always, that the weight of every locomotive, and the
name of the owner shall be conspicuously and legibly
affixed thereon; and any owner not having affixed such
Application of
turnpike acts;
weight of
locomotive to
be affixed.

exceeding £5 ; and in all cases the proof of exemption shall be upon the person claiming the same.

Limitation of
time for
prosecuting
offenders
against turn-
pike acts.

18. No person shall or may be convicted of any offence or offences contrary to the provisions of this act or of the said recited acts [3 Geo. 4. c. 126., 4 Geo. 4. c. 95., and 7 & 8 Geo. 4. c. 24.], or of any local turnpike act, in a summary way, before any justice or justices, after the expiration of six months from the time when any such offence or offences shall or may have been committed.

19. [3 Geo. 4. c. 126., 4 Geo. 4. c. 95., and 7 & 8 Geo. 4. c. 24. incorporated.]

REGULATION OF LOCOMOTIVES ON TURNPIKE AND OTHER ROADS.

24 & 25 VICT. c. 70.

1. [Scale of tolls to be taken for locomotives.]

2. [Repeal of former enactments as to tolls to be taken for locomotives.]

3. [Size and weight of locomotives.]

4. [As to the weight on each pair of wheels.]

Power to
Secretary of
State to prohibit
the use of
locomotives
destructive to
highways or
dangerous to
the public.

5. In case it appear to one of Her Majesty's Principal Secretaries of State that the use of any particular description of locomotive causes excessive wear and tear of the highways, or is dangerous or inconvenient to the public, or that the use of locomotives generally or of any particular description of locomotive is dangerous or inconvenient to the public in certain districts or places, it shall be lawful for such Secretary of State from time to time, by order under his hand, to prohibit the use of any kind or description of locomotive specified in such order on any highway whatsoever, or to prohibit the use of locomotives, or any specified kind or description thereof, on the highways within any place, district, or limit mentioned in such order, or otherwise to restrict the use of locomotives as circumstances may appear to him to require, and from time to time, by order made as aforesaid, to revoke or alter any such order previously made ; and every order made under this enactment shall be published in the London Gazette, and any person using any locomotive contrary to any such order shall for every such offence, on summary conviction thereof before two justices, forfeit any sum not exceeding £10.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

6. [Use of locomotives restricted over suspension and other bridges.] Use over bridges restricted.

7. [Damage caused by locomotives to bridges to be made good by owners.] Damage.

8. Every locomotive propelled by steam or any other than animal power to be used on any turnpike road or public highway shall be constructed on the principle of consuming and so as to consume its own smoke; and any person using any locomotive not so consuming its own smoke shall, on conviction thereof before any two justices, forfeit any sum not exceeding £5 for every day during which such locomotive shall be used on any such turnpike road or public highway. Locomotives propelled by steam to consume their own smoke.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

9. It shall not be lawful for any owner of such locomotive, either in his own person or by his servants, to use any such locomotive, waggon or carriage, on the turnpike or other roads, except there be at the least two persons to drive or conduct such locomotive, and if more than two such waggons or carriages be attached to such locomotive, one person to take charge of such waggons and carriages; and any person in charge of such locomotive shall provide two efficient lights, to be affixed conspicuously, one at each side, on the front of the same, between the hours of one hour after sunset and one hour before sunrise; and any person acting contrary hereto shall for every such offence, on summary conviction thereof before two justices, forfeit any sum not exceeding £5. As to the number of persons in charge of locomotive and waggons.

Lights to be used at night.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

10. [Exemption from tolls of waggons, &c., now exempt under any general or local act.] Toll exemption.

11. [Speed of locomotives on public highways not to exceed 10 miles an hour, or through any city, town, or village 5 miles an hour; and any person acting contrary hereto shall for every such offence, on summary conviction before two justices, if not the owner of such locomotive, forfeit any sum not exceeding £5, and if owner, any sum not exceeding £10.] Speed regulated.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

12. [Provisions of general acts not repealed relating to turnpike roads to apply to locomotives]: Provided always, that the weight of every locomotive, and the name of the owner shall be conspicuously and legibly affixed thereon; and any owner not having affixed such Application of turnpike acts; weight of locomotive to be affixed.

weight and such name shall, upon conviction thereof before two justices, forfeit any sum not exceeding £5; and any owner who shall fraudulently affix thereon any incorrect weight shall, upon conviction thereof, forfeit any sum not exceeding £10.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Right of action
in case of
nuisance.

13. Nothing in this act contained shall authorize any person to use upon a highway a locomotive engine which shall be so constructed or used as to cause a public or private nuisance; and every such person so using such engine shall, notwithstanding this act, be liable to an indictment or action, as the case may be, for such use, where, but for the passing of this act, such indictment or action could be maintained.

14. [Short title.]

15. [Extent of act, Great Britain.]

CARRIAGE OF PASSENGERS BY SEA.

18 & 19 VICT. c. 119.

2. [Act may be cited as "The Passengers Act, 1855;" and reference to sections by number to be sufficient.]

Definition of
terms used in
this act.

3. For the purposes of this act, the expression "United Kingdom" shall signify Great Britain and Ireland, and the islands of Guernsey, Jersey, Alderney, Sark, Scilly, and Man;..... the expression "statute adult" shall signify any person of the age of 12 years or upwards, or two persons between the ages of one and 12 years; the expression "passage" shall include all passages except cabin passages; the expression "passengers" shall include all passengers except cabin passengers, and except labourers under indenture to the Hudson's Bay Company, and their families, conveyed in ships the property of or chartered by the said company; and no persons shall be deemed cabin passengers unless the space allotted to their exclusive use shall be in the proportion of at least 36 clear superficial feet to each statute adult, nor unless they shall be messed throughout the voyage at the same table with the master or first officer of the ship, nor unless the fare contracted to be paid by them respectively shall be in the proportion of at least 30s. for every week of the length of the voyage as computed under the provisions of this act for sailing vessels proceeding

from the United Kingdom to any place south of the equator, and of 20s. for such vessels proceeding to any place north of the equator, nor unless they have been furnished with a duly signed contract ticket according to the form in schedule (K.);..... the expression "ship" shall signify any description of sea-going vessel, whether British or foreign; the expression "passenger ship" shall signify every description of such ship carrying upon any voyage to which the provisions of this act shall extend more than 30 passengers, or a greater number of passengers than in the proportion of one statute adult to every 50 tons of the registered tonnage of such ship if propelled by sails, or of one statute adult to every 25 tons if propelled by steam; the expression "master" shall signify the person who shall be borne on the ship's articles as master, or who, other than a pilot, shall for the time being be in charge or command of any such ship or "passenger ship;" and the expression "emigrant runner" shall signify every person, other than a licensed passage broker or his bonâ fide salaried clerk, who, within any port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectation thereof, shall directly or indirectly conduct, solicit, influence, or recommend any intending emigrant to or on behalf of any passage broker, owner, charterer, or master of a ship, lodging house or tavern or shop keeper, money changer, or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or shall give or pretend to give to such intending emigrant any information or assistance in any way relating to emigration.

4. This act shall extend to every "passenger ship" proceeding on any voyage from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, and on every colonial voyage as herein-after describedbut shall not extend to any of Her Majesty's ships of war, nor to any ships in the service of the Admiralty,..... nor to any steam vessel regularly employed in the conveyance of the public mails under contract with the government of the state or colony to which such steam vessel may belong, provided the master thereof shall, on demand, produce to the emigration officer at the port of clearance or port of departure a certificate of exemption in the form

To what vessels and voyages this act extends.

18. If any person be found on board any passenger ship, with intent to obtain a passage therein, without the consent of the owner, charterer, or master thereof, such person, and

Penalty on persons found on board ships without consent of owners, &c.

every person aiding and abetting him in such fraudulent intent, shall respectively be liable to a penalty not exceeding £5, and in default of payment to imprisonment, with or without hard labour, for not exceeding three calendar months; and such person so found on board may be taken before any justice, without warrant, and such justice may summarily hear the case, and on proof of the offence convict such offender as aforesaid.

Return of
passage money.

48. [Return of passage money and compensation to passengers where passages not provided for them according to contract.]

49. [Subsistence in case of detention.]

Wreck, &c.

51. [In case of wreck or damage passengers to be provided with a passage by some other vessel, and maintained in the meantime; in default, passage money to be returned:

Removal of
passengers.

Power to emigration officer to remove passengers from ship; penalty on passengers refusing to leave.]

56. [Penalty on wrongfully landing passengers.]

57. [Passengers to be maintained for 48 hours after arrival; penalty.]

58. [Passengers' right of action preserved.]

No person to
act as a passage
broker without
a licence.

66. [No person directly or indirectly to act as a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, or sell or let, or agree to sell or let, or be in anywise concerned in the sale or letting of passages in any ship, whether a "passenger ship" or otherwise, proceeding from the United Kingdom to any such place as aforesaid, unless such person, with sureties, approved by the emigration officer at the port nearest to the place of business of such person, have previously entered into a bond, in £1000 to the crown (which is to be renewed on each occasion of obtaining a licence); nor unless such person have obtained a licence, to let or sell passages, nor unless such licence be then in force; every person offending against this enactment to be liable for each offence to a penalty not exceeding £50 nor less than £20, to be recovered as herein-after mentioned: Bond not required of sworn brokers of London: There is to be excepted from the operation of this section the Emigration Commissioners, and persons contracting with them, or acting under their authority, and persons acting as

Emigration
Commissioners
and agents of
passage brokers
exempted.

agents of passage brokers in pursuance of appointments in the form in schedule (I.), signed by broker, and countersigned by such emigration officer as aforesaid: The acts and defaults of any person acting under the authority or as agent of any passage broker to be deemed to be also the acts and defaults of the broker: Emigration officer may accept the bond of a guarantee society, in lieu of such bond with two sureties as aforesaid.]

Passage brokers to be responsible for their agents.

67. [Passage brokers licences to be obtained from justices at petty sessions: Licence to be according to the form in the schedule (E.), and continue in force until 31st December in the year in which it is granted, and for 31 days afterwards, unless sooner forfeited, as herein mentioned: Justices to give notice to Emigration Commissioners of licence granted. Notice to be given to Emigration Commissioners of intended application for licence: Power to justices to order licences to be forfeited, who shall give notice of the same to Emigration Commissioners.]

Passage brokers licence, how obtained; duration and forfeiture thereof.

69. No passage broker shall employ as an agent in his business of passage broker any person not holding from him the appointment of agent as herein-before mentioned; and every person holding such appointment shall produce the same, on the demand of any emigration officer, or of any person treating for a passage under this act. For any breach or violation of this enactment the offender shall be liable for each offence to a penalty not exceeding £50 nor less than £20.

Passage brokers to employ no agents except those expressly appointed by them.

Agents to produce appointments, on demand.

70. [Penalty on persons fraudulently inducing others to engage passages.]

71. Every person, except the Emigration Commissioners and persons acting for them and under their direct authority, who receives money from any person for a passage in any ship, or a cabin passage in any "passenger ship" proceeding from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, shall give to the person paying such money a contract ticket, signed by the owner, charterer, or master of the ship or "passenger ship" (as the case may be) in which the passage is to be provided, or by some person in their or his name, and on their or his behalf: Such contract ticket shall be made out in plain and legible characters on a printed form, which in the case of cabin passengers shall be according to the form in schedule (K.), and in the case of all other pas-

Contract tickets required for cabin and other passengers;

300. CARRIAGE OF PASSENGERS BY SEA. [18 & 19 Vict. c. 119.]

Penalty for
default.

sengers in the form in schedule (L.), or according to such other form as in either case may from time to time be prescribed by the Emigration Commissioners in any notice issued under their hands, or the hands of any two of them, and published in the London Gazette; and any directions contained on the face of such form of contract ticket shall be obeyed in the same manner as if herein set forth. In case of noncompliance with any of the requirements of this section, or of any of the directions on such form of contract ticket not inconsistent with this act, the person so offending shall for each offence be liable to a penalty not exceeding £50 nor less than £5: Such contract tickets shall not be liable to any stamp duty.

72. [Penalty for altering or inducing any one to part with contract ticket.]

Summary
remedy for
breach of
contract.

73. Any question which may arise respecting the breach or nonperformance of any of the stipulations in any such contract ticket may, at the option of any passenger or cabin passenger interested therein, be heard and determined in a summary way by the justices, magistrates, sheriffs, or other officers herein-after authorized to adjudicate on offences and complaints under the act, who are hereby authorized to try such questions, and if they find that a breach of contract has been committed, to award to the complainant such damages and costs as they may think fit, not exceeding in any case the amount of the passage money specified in such contract ticket and £20; and if such damages and costs be not at once paid, payment thereof shall thereupon be enforced in the same manner and by the same processes as the payment of subsistence money or the return of passage money may be enforced under this act; provided that if any passenger has obtained compensation or redress, under any of the other provisions of this act, he shall not be entitled to sue under this section for damages for the same matter or cause of complaint.

74. [Penalty on passengers and on masters, &c omitting to produce contract tickets to emigration officer.]

Penalty on persons acting as runners without licence and badge, and on passage brokers employing them.

75. Any person who acts as an "emigrant runner" without having previously been licensed and registered as herein-after mentioned, or who while so acting omits to wear conspicuously on his breast such badge as herein-after mentioned, or who employs as an "emigrant runner" any person not duly licensed and registered, shall for each offence be liable to a penalty not exceeding £5 nor less than 20s.

76. The justices at any petty sessions held for the district or place within which any person wishing to act as an "emigrant runner" is to carry on his business may, upon the recommendation in writing of an emigration officer or of the chief constable or other head officer of police of such district or place (but not otherwise), grant, if they think fit, to such person wishing to act as runner, a licence for that purpose according to the form in schedule (M.), and such runner shall within 48 hours thereafter (under a penalty not exceeding 40s. for any default) lodge such licence with the nearest emigration officer, who shall register the name and abode of such runner in a book to be kept for that purpose, and shall number each name registered in arithmetical progression, and shall supply to such runner, on his paying a sum not exceeding 7s. for the same, a badge of such form and description as shall be approved by the said Emigration Commissioners.

Mode of
licensing and
registering
runners.

77. ["Emigrant runner's" licence to continue in force until the 31st December in the year in which it is granted, unless sooner revoked by any justice for any offence against this act or for any other misconduct committed by the holder of such licence.]

Emigrant
runner's licence
to be renewed
annually.

78. If any "emigrant runner" refuse or fail to produce, on demand, his badge for inspection, or to permit any person to take the number thereof, or if he fail within 48 hours to give to the emigration officer of the port or place within which he is licensed to act notice in writing of any change in his place of abode, in order that his new abode may be registered, or of the loss of his badge, or if he mutilate or deface his badge, or wear the same while unlicensed, or wear any other than the one delivered to him by such emigration officer as aforesaid, or permit any other person to use his badge, he shall for each such offence be liable to a penalty not exceeding 40s., and to the forfeiture of his licence, if the convicting justices or magistrate so determine; and any person retaining or using any "emigrant runner's" badge not issued to him under this act, or counterfeiting or forging any such badge, shall for each such offence be liable to a penalty not exceeding £5.

Penalty on
runner for
certain acts of
misconduct.

Penalty on per-
sons using
badges not law-
fully issued to
them.

80. No "emigrant runner" shall be entitled to recover from any passage broker any fee, commission, or reward for or in consideration of any service connected with emigration, unless he be acting under the written authority of such passage broker, nor, under a penalty for each offence not

Runners not en-
titled to com-
mission from
any passage
broker unless
acting with
written au-

thority, nor from emigrants for procuring their passage.

exceeding £5, shall take or demand from any person about to emigrate any fee or reward for the procuring of his passage, or in any way relating thereto.

List of agents and runners to be exhibited by brokers, and sent to emigration officers ;

81. Every passage broker shall exhibit and keep constantly exhibited in some conspicuous place in his office or place of business a correct list, in plain and legible characters, containing the names and addresses in full of every person for the time being holding such authority to act as his agent or as an emigrant runner for him as aforesaid, and shall, on or before the 5th day, or if that day be a Sunday, on or before the 4th day in every month, transmit a true copy of such list, duly signed by him, to the emigration officer stationed nearest to the place of business of such licensed passage broker, and shall report to such emigration officer every discharge or fresh engagement of an agent or of an "emigrant runner" within 24 hours of the same taking place. In case of noncompliance with any of the requirements of this section, the person so offending shall be liable for each offence to a penalty not exceeding £5 nor less than £2.

penalty for default.

83. [Penalty for falsifying documents to obtain passages from Emigration Commissioners, and for personation.]

By whom penalties are to be recovered.

84. All penalties imposed by this act shall be sued for in the United Kingdom by any emigration officer or his assistant, or by any person authorized thereto by the said Emigration Commissioners under the hands of any two of them, or by any collector or comptroller of Her Majesty's customs, or by any other officer of Her Majesty's customs authorized thereto in writing by the Commissioners of Her Majesty's Customs. [By whom to be sued for in Her Majesty's possessions abroad.] And all sums of money made recoverable by this act as return of passage money, subsistence money, damages, or compensation may be sued for and recovered by and for the use of any passenger entitled thereto under this act, or by any such officer as aforesaid, for and on behalf and to the use of any such passenger or any number of such passengers respectively, and in any case either by one or several informations or complaints.

By whom passage, subsistence, and compensation monies may be recovered.

Tribunal for adjudicating on offences and complaints under this act.

85. All penalties imposed and all sums of money made recoverable under this act, by way of passage money, subsistence money, compensation, or damages for the breach of any stipulation in any contract ticket, shall and may be

sued for and recovered before any two or more justices acting in any part of Her Majesty's dominions or possessions in which the offence has been committed or the cause of complaint has arisen, or in which the offender or party complained against happens to be, or acting in any county or borough or place adjacent to any navigable river or inlet of the sea on which such offence has been committed or cause of complaint has arisen; and upon information or complaint made before any one justice acting as aforesaid he shall issue a summons, according to the form in the schedule (N.), requiring the party offending or complained against to appear at a time and place to be named therein; and every such summons shall be served on the party offending or complained against, or be left at his last known place of abode or of business, or on board any ship to which he may belong; and if such party shall not appear accordingly, then (upon proof of the due service of the summons by delivering the summons or a copy thereof to the party, or at his last known place of abode or of business, or on board any ship to which he may belong, to the person in charge of any such ship,) any two of such justices so acting as aforesaid may either hear and determine the case in the absence of the party, or either of them may issue his warrant for apprehending and bringing such party before them or any two justices so acting as aforesaid; or the justice before whom the charge is made, if he have reason to suspect, from information upon oath, that the party is likely to abscond, may issue such warrant in the first instance, without any previous summons; and either upon the appearance of the party offending or complained against, or in his absence as aforesaid, any two of such justices so acting as aforesaid may hear and determine the case, either with or without any written information or complaint; and upon proof of the offence, or of the complainant's claim, (as the case may be,) either by confession of the party offending or complained against, or upon the oath of one or more credible witness or witnesses (and the justices are hereby authorized to summon and swear any witnesses who may be deemed necessary), it shall be lawful for such justices so acting as aforesaid to convict the offender, or to adjudicate upon the complaint, (such conviction or adjudication to be drawn up according to one of the forms of conviction or adjudication contained in schedule (O.), or as near thereto as the circumstances of the case will admit) and upon every such conviction to order the offender to pay such penalty as they may think proper, not exceeding the penalties herein-before imposed, and upon every such adjudication to order the party com-

Proviso where
no forms of
proceeding are
prescribed
by this act.

plained against to pay to the party suing for the same the sum of money or damages sued for, or so much thereof as such justices shall think the complainant justly entitled to, together with, in every case, the costs of the proceedings. [Payment may be enforced by imprisonment, with or without hard labour.] In all proceedings taken under this act for which no form is expressly provided it shall be lawful to use forms similar, as nearly as circumstances will admit, to those contained in the schedule to 11 & 12 Vict. c. 43.

See 2 & 3 Vict. c. 71. ss. 14. 22. 44. 45. 48., ante, pp. 43, 45, 54, 55, 56.

86. [Police and stipendiary magistrate, to have the same powers as justices.]

87. [No objection to be allowed, nor convictions to be quashed for want of form.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

Application of
penalties.

88. [Application of penalties, if recovered in United Kingdom by emigration or customs officer, to be paid to Emigration or Customs Commissioners, and be applied as Treasury direct. Justices may award compensation out of penalty, not exceeding one moiety, to party aggrieved.]

See 2 & 3 Vict. c. 71. s. 47, ante, p. 56, and 18 & 19 Vict. c. 126. s. 22., post, p. 383.

Limitation of
legal proceed-
ings generally.

94. Where no time is expressly limited within which any complaint or information is to be made or laid for any breach or nonperformance of any of the requirements of this act, the complaint shall be made or the information laid within 12 calendar months from the time when the matter of such complaint or information respectively arose, or in case the master of any ship is the offender or party complained against, within 12 calendar months next after his return to the country in which the matter of complaint or information arose.

But see 2 & 3 Vict. c. 71. s. 44., ante, p. 54.

Colonial
voyages de-
fined.*

95. "Colonial voyage" shall signify any voyage from any place within any of such [*i.e.* Her Majesty's] possessions (except the territories under the government of the East India Company and the Island of Hong Kong) to any place whatever, where the distance between such places shall

* As to vessels plying between Australian ports, see 24 & 25 Vict. c. 52.

exceed 400 miles, or the duration of the voyage, to be prescribed as herein-after mentioned, shall exceed three days.

96. [Extent of application of this act to colonial voyages.]

The remaining sections it is not thought necessary to notice.

SCHEDULE (E.)

*Form of Passage Broker's Licence.**

A.B.† of _____ in the _____ having shown to the satisfaction of me (or us) the undersigned, that he hath given bond to Majesty, as by the "Passengers Act, 1855," required, and also given fourteen days previous notice to the Emigration Commissioners of his intention to make application for a licence to carry on the business of a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, I (or we), the undersigned, having had no sufficient cause shown to me (or us), and seeing no valid reason why the said A.B. should not receive such licence, do hereby license and authorize the said A.B. to carry on the business of a passage broker as aforesaid until the end of the present year, and thirty-one days afterwards, unless this licence shall be sooner determined by forfeiture for misconduct on the part of the said A.B., as in the "Passengers Act, 1855," is provided.

Given under my hand and seal (or our respective hands and seals), this day of _____ 185 _____ at _____

Signature _____ (L.S.)

{ Justices of the peace, police or stipendiary magistrate, or sheriff, or steward, or sheriff or steward substitute, as the case may be.

†The christian and surnames in full, with the address and trade or occupation of the party applying for the licence, must be correctly inserted. If a member of a firm, the christian and surnames of all the members must be given.

* N.B.—Each member of a firm or partnership who acts as a passage broker must have a separate licence.

SCHEDULE (I.)

Form of Appointment of Passage Broker's Agent.

I, A.B., of, &c. (or as the case may be) one of the partners and on behalf of the firm of, &c. (name all the partners and the style of the firm) carrying on the business of _____ at _____, do hereby nominate and appoint you, C.D. of, &c., to act as my agent and on my behalf in the sale or letting of passages and otherwise in the business of a passage broker, according to the provisions of "The Passengers Act, 1855."

Signature in full _____
Place and date _____ 185 _____

Counter signature _____ { Emigration officer at the Port of _____

DIRECTIONS.

Insert in the proper places the christian and surnames in full, with the correct addresses and designations of the constituent and agent respectively.

SCHEDULE (K.)

COUNTERPART OF CABIN PASSENGER'S CONTRACT TICKET.

This counterpart is to be produced by the owner, charterer, or master of the ship to the emigration officer at the port of embarkation (or, if no such officer, to the officer of customs), or to any one appointed by him to receive it, under a penalty for default not exceeding £10.

These directions form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every cabin passenger engaging a passage in a "passenger ship" from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, under a penalty not exceeding £20.
2. Unless the passengers are to have a free table, the victualling scale for the voyage must be appended to the contract ticket.
3. All the blanks must be correctly and legibly filled in, and the ticket must be legibly signed with the Christian names and surname and address in full of the party issuing the same.
4. The day of the month on which the ship is to sail must be inserted in words, and not in figures only.
5. When once issued, this ticket must not be withdrawn, from the passenger nor any alteration or erasure made in it, unless with his consent.

Ship _____ of _____ tons register, to sail from _____ on the _____ day of _____ 185 _____ for _____

In consideration of the sum of £ _____	
I hereby agree with the person named in the margin hereof that such person shall be provided with _____ class cabin passage in the above-named ship, to sail from the port of _____ in _____ with not less than _____ cubical feet of luggage for each person, and that such person shall be victualled as _____ class cabin passenger during the voyage, and the time of detention at any place before its termination; and I further engage to land the person aforesaid, with _____ luggage, at the last-mentioned port, free of any charge beyond the passage money aforesaid; and I hereby acknowledge to have received the sum of £ _____ in { full } payment of such passage money.	
Signature in full _____ Place and date _____	
[If signed by a broker or agent, state on whose behalf.]	

No. of Persons.	No. of Persons.
Adults above 15 years.	Children 15 years and under.
Names.	
Total No. of persons	

Deposit £ _____
Balance £ _____
Total £ _____

to be paid at _____.

[If signed by a broker or agent, state on whose behalf.]

N.B.—This contract ticket is exempt from stamp duty.

CABIN PASSENGER'S CONTRACT TICKET.

1. A contract ticket in this form must be given to every cabin passenger engaging a passage in a "passenger ship" from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, under a penalty not exceeding £20.
2. Unless the passengers are to have a free table, the victualling scale for the voyage must be appended to the contract ticket.
3. All the blanks must be correctly and legibly filled in, and the ticket must be legibly signed with the Christian names and surname and address in full of the party issuing the same.
4. The day of the month on which the ship is to sail must be inserted in words, and not in figures only.
5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration or erasure made in it, unless with his consent.

Ship _____ of _____ tons register, to sail from _____ on the _____ day of _____ 185 _____ for _____

In consideration of the sum of £ _____	
I hereby agree with the person named in the margin hereof that such person shall be provided with _____ class cabin passage in the above-named ship, to sail from the port of _____ in _____ with not less than _____ cubical feet of luggage for each person, and that such person shall be victualled as _____ class cabin passenger during the voyage, and the time of detention at any place before its termination; and I further engage to land the person aforesaid, with _____ luggage, at the last-mentioned port, free of any charge beyond the passage money aforesaid; and I hereby acknowledge to have received the sum of £ _____ in { full } payment of such passage money.	
Signature in full _____ Place and date _____	
[If signed by a broker or agent, state on whose behalf.]	

No. of Persons.	No. of Persons.
Adults above 15 years.	Children 15 years and under.
Names.	
Total No. of persons	

Deposit £ _____
Balance £ _____
Total £ _____

to be paid at _____.

[If signed by a broker or agent, state on whose behalf.]

NOTICE TO CABIN PASSENGERS.

1. If cabin passengers, through no default of their own, fail to obtain a passage in the ship, and on the day named in this contract ticket, they may obtain redress for breach of contract by summary process under the 73rd section of the Customs Act, 1859.
2. Cabin passengers must produce, on demand, their contract tickets to the government emigration officer, under a penalty not exceeding £10. This ticket should therefore be preserved and kept in readiness to be produced on board the ship.

N.B.—This contract ticket is exempt from stamp duty.

SCHEDULE (L.)

Ship _____

Counterpart of passenger's contract ticket.

This part of the contract is to be separated from the other, and to be delivered by the passenger to the emigration officer at the port of embarkation, (or, if no such officer, to the officer of customs,) or to any one appointed by him to receive it, under a penalty not exceeding £10.

CONTRACT TICKET.

I engage that the persons mentioned below shall be provided with a steerage passage to _____ and be landed at the port of _____ in the ship _____ of _____ tons with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the whole voyage according to the dietary scale prescribed by law. The ship to receive her passengers at _____ on the _____ day of _____ 185____. Passage money, including government dues, if any, and all charges of landing, £_____.

NAMES.	Ages.

_____ Souls, equal to _____ statute adults.

To be signed in full by the party issuing the ticket. _____

* Insert number of souls and of statute adults respectively.

These directions and the "Notices to passengers" below, form part of, and must appear on, each contract ticket.

PASSENGER'S CONTRACT TICKET.

1. A contract ticket in this form must be given to every passenger engaging a passage from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea.

2. The victualling scale for the voyage must be printed in the body of the ticket.

3. All the blanks must be correctly filled in, and the ticket must be legibly signed with the Christian names and surname and address in full of the party issuing the same.

4. The day of the month on which the passengers are to embark must be inserted in words, and not in figures.

5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration, addition, or erasure made in it.

Ship _____ of _____ tons register, to take in passengers at _____ for _____ on the _____ day of _____ 185____.

NAMES.	Ages.	Equal to Statute Adults.

I engage that the person named in the margin hereof shall be provided with a steerage passage to, and shall be landed at the port of _____ in the ship _____ with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the voyage, and the time of detention at any place before its termination, according to the subjoined scale, for the sum of £_____, including government dues before embarkation, and head money, if any, at the place of landing, and every other charge, except freight for excess of luggage beyond the quantity above specified; and I hereby acknowledge to have received the sum of £_____ in { full } payment.

The following quantities, at least, of water and provisions, (to be issued daily,) will be supplied by the master of the ship, as required by law, viz., to each statute adult 3 quarts of water daily, exclusive of what is necessary for cooking the articles required by the Passengers Act to be issued in a cooked state; and a weekly allowance of provisions according to the following scale.

[Here insert the victualling scale intended to be used on the voyage. This must be either the scale prescribed in the 35th section of the Passengers Act, 1855, or that scale modified by the introduction of articles authorized by the act, to be substituted for oatmeal, rice, and potatoes.]

[N.B.—If mess utensils and bedding are to be provided by the ship, the stipulation must be inserted here.]

Signature in full _____
Place and date _____

[If signed by a broker or agent, state on whose behalf.]

Deposit £ _____
Balance £ _____ to be paid at _____.
Total £ _____

NOTICES TO PASSENGERS.

1. If passengers, through no default of their own, are not received on board on the day named in their contract tickets, or fail to obtain a passage in the ship, they should apply to the government emigration officer at the port, who will assist them in obtaining redress under the Passengers Act.

2. Passengers should carefully keep this part of their contract ticket till after the end of the voyage.

N.B.—This contract ticket is exempt from stamp duty.

X

SCHEDULE (M.)

Form of Emigrant Runner's Annual Licence.

(*) The christian and surnames in full, with the address of the party applying for the licence, must be here correctly inserted.

(b) City, town, or district in which the emigrant runner is to carry on his business.

A.B. () of in the having made application in writing to us, the undersigned justices of the peace assembled in petty session, for the (b) of to grant to him a licence to enable him to be registered as an emigrant runner in and for (b) , and the said [A.B.] having also been recommended as a proper person to receive such licence by an emigration officer, or by the chief constable [or other head officer of police, as the case may be] of [the district, town, or place in which the said A.B. is to carry on his business]: we, the under-mentioned justices, having no sufficient cause shown to us, and seeing of ourselves no valid reason why the said A.B. should not receive such licence, do hereby grant to him this licence for the purposes aforesaid, subject nevertheless to be revoked for misconduct on the part of the said A.B., as in the "Passengers Act, 1855," is provided.*

MERCHANT SHIPPING.

17 & 18 VICT. c. 104.

Interpretation or terms.

2. In the construction of this act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings herein-after assigned to them; that is to say,.....

"Foreign-going ship" shall include every ship employed in trading or going between some place or places in United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the islands of Guernsey, Jersey, Sark, Alderney, and Man, and the continent of Europe between the river Elbe and Brest inclusive:

"Home-trade ship" shall include every ship employed in trading or going within the following limits; that is to say, the United Kingdom, the islands of Guernsey, Jersey, Sark, Alderney, and Man, and the continent of Europe between the river Elbe and Brest inclusive.

.....

PART I.

6. [Board of Trade to be department to superintend merchant shipping.]

7. [Certificates and documents purporting to be issued by or under direction of Board of Trade; and to be sealed or signed in a given manner, to be received in evidence.]

8. [Board of Trade to issue forms of instruments; such forms to be sealed with their seal, or marked with some other distinguishing mark.]

10. [Forgery of such seal or mark and fraudulent alteration of forms a misdemeanor; any person not using (without reasonable excuse) forms issued by Board of Trade, where by third part of act such forms are required to be used, and selling, &c. forms falsely purporting to be sanctioned by Board of Trade, to incur a penalty not exceeding £10.]

*Forgery of
Seal of Board
of Trade, &c.*

PART II.

18. No ship shall be deemed to be a British ship unless she belongs wholly to owners of the following description; that is to say,

*Description
and ownership
of British ships.*

1. Natural-born British subjects:

Provided that no natural-born subject who has taken the oath of allegiance to any foreign Sovereign or State shall be entitled to be such owner as aforesaid, unless he has subsequently taken the oath of allegiance to Her Majesty, and is during the whole period of being an owner resident within Her Majesty's dominions, or if not so resident, member of a British factory, or partner in a house actually carrying on business in the United Kingdom or in some other place within Her Majesty's dominions:

2. Persons made denizens by letters of denization, or naturalized by or pursuant to any act of the Imperial Legislature, or by or pursuant to any act or ordinance of the proper legislative authority in any British possession:

Provided that such persons are during the whole period of being owners resident within Her Majesty's dominions, or if not so resident, members of a British factory, or partners in a house actually carrying on business in the United Kingdom or in some other place within Her Majesty's dominions, and have taken the oath of allegiance to Her Majesty subsequently to the period of their being so made denizens or naturalized:

3. Bodies corporate established under, subject to the laws of, and having their principal place of business in the United Kingdom or some British possession.

19. [British ships, with certain exceptions, must be registered.]

PART III.

109. So much of the third part of this act as relates to wages and effects of deceased seamen and

*Application of
Part III. of
act.*

apprentices shall apply to all sea-going British ships, wherever registered, of which the crews are discharged, or whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships.

So much of the third part of this act as relates to the shipping and discharge of seamen in the United Kingdom shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships.

So much of the third part of this act as relates to the protection of seamen from imposition; to discipline; shall apply to all ships registered in any of Her Majesty's dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships.

And the whole of the third part of this act shall apply to all sea-going ships registered in the United Kingdom (except such as are exclusively employed in fishing on the coasts of the United Kingdom, and such as belong to the Trinity House, the Commissioners of Northern Lighthouses, or the port of Dublin Corporation, and also except pleasure yachts), and also to all ships registered in any British possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.

Local marine boards.

110. [Establishment of local marine boards at sea ports now having such boards, and at such other places as Board of Trade appoint.]

Local marine boards to establish shipping offices.

122. [In every seaport in which there is a local marine board such board to establish a shipping office or offices, and appoint shipping masters, with necessary deputies, &c. ; and every act done by or before deputy to have same effect as if done by or before shipping master.]

Business of such offices generally.

124. It shall be the general business of shipping masters appointed as aforesaid—

To afford facilities for engaging seamen by keeping registries of their names and characters ;

To superintend and facilitate their engagement and discharge in manner herein-after mentioned ;

To provide means for securing the presence on board at the proper times of men who are so engaged ;

To facilitate the making of apprenticeships to the sea service ;

To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

125. [Fees to be paid upon engagements and discharges of seamen effected before shipping masters.] Fees.

126. [Masters to pay fees, and deduct part (not exceeding sums in schedule Q.) from wages.]

130. [Board of Trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this act to be so transacted.] Dispensation with shipping master's superintendence.

141. [Shipping masters to give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined by Board of Trade, with concurrence, so far as relates to pauper apprentices in England, of Poor Law Board] Shipping masters to assist in binding apprentices, and may receive fees.

142. [Indentures of any boy bound apprentice to sea service by guardians or overseers to be witnessed by two justices. Justices to ascertain his consent, and his age to be 12 years, &c.] Pauper apprentices.

143. [Indentures of apprenticeship to sea service exempt from stamp duty, and to be in duplicate, and the person taking the apprentice to transmit indenture within 7 days after execution to registrar of seamen or shipping master, who is to record and retain one copy and endorse the other; and when indenture assigned or cancelled, or apprentice dies or deserts, master of apprentice, within seven days, if assignment, &c. happens within the United Kingdom, or if elsewhere so soon as circumstances permit, to notify same to registrar of seamen, or shipping master, to be recorded. Every person who fails to comply with the provisions of this section to incur a penalty not exceeding £10.] Indentures of apprenticeship exempt from stamp duty; registering thereof, &c.

144. [Rules to govern apprenticeship of paupers.]

145. [Master of every foreign-going ship, before carrying apprentice to sea from any place in United Kingdom, to

Apprentices and their indentures to be

brought before shipping-master before each voyage in a foreign-going ship ; cause such apprentice to appear before shipping master before whom crew engaged, and produce to him the indenture by which such apprentice is bound, and the assignment (if any) ; and name of apprentice, with date of indenture and of assignment, and name of port or ports at which same have been registered, to be entered on the agreement.

penalty. For default in obeying the provisions of this section master for each offence to incur a penalty not exceeding £5.]

Board of Trade may license persons to procure seamen. 146. The Board of Trade may grant to such persons as it thinks fit licences to engage or supply seamen or apprentices for merchant ships in the United Kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as such Board thinks proper.

Penalties : 147. The following offences shall be punishable as hereinafter mentioned ; (that is to say,)

for supplying seamen without licence; 1. If any person not licensed as aforesaid, other than the owner or master or a mate of the ship, or some person who is *bond fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding £20 :

for employing unlicensed persons; 2. If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding £20, and if licensed shall in addition forfeit his licence :

for receiving seamen illegally supplied. 3. If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied contrary to the provisions of this act, he shall for every seaman or apprentice so engaged or supplied incur a penalty not exceeding £20.

Penalty for receiving remuneration from seamen for shipping them. 148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him

with employment, he shall for every such offence incur a penalty not exceeding £5.

149. The master of every ship, except ships of less than 80 tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the United Kingdom as one of his crew in the manner herein-after mentioned; and every such agreement shall be in a form sanctioned by the Board of Trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say,)

Agreements to be made with seamen, containing certain particulars.

- (1.) The nature, and, as far as practicable, the duration of the intended voyage or engagement:
- (2.) The number and description of the crew, specifying how many are engaged as sailors:
- (3.) The time at which each seaman is to be on board or to begin work:
- (4.) The capacity in which each seaman is to serve:
- (5.) The amount of wages which each seaman is to receive:
- (6.) A scale of the provisions which are to be furnished to each seaman:
- (7.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Board of Trade as regulations proper to be adopted, and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seamen in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law: Provided that if the master of any ship belonging to any British possession has an agreement with his crew made in due form according to the law of the possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the Board of Trade.

Proviso as to forms for colonial ships.

150. [For foreign-going ships such agreements, when made in the United Kingdom, to be made before and

For foreign-going ships agreements

to be made
before shipping
master ;
saving.

attested by a shipping master, except in the case of substitutes engaged in place of seamen who have signed agreement, and whose services are lost within 24 hours of ship's putting to sea, by death, desertion, or other unforeseen cause; when the engagement cannot be so made, and in that case, master, before ships put to sea, if practicable, and if not, as soon afterwards as possible, to cause agreement to be read over and explained to seamen; and seamen thereupon to sign same in presence of a witness, who is to attest their signatures.]

In home trade
ships agree-
ment to be
entered into
before a ship-
ping master or
other witness.

155. [In the case of home trade ships, crews or single seamen may, if master thinks fit, be engaged before a shipping master in manner directed with respect to foreign-going ships; and if engagement not so made, master, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, to cause agreement to be read over and explained to each seaman, and seaman to sign same in the presence of a witness, who is to attest his signature.]

Special agree-
ments for home
trade ships
belonging to
same owner.

156. [In cases where several home trade ships belong to same owner, the agreement with the seamen may be made by the owner instead of the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement.]

Penalty for
shipping sea-
men without
agreement
duly executed.

157. [If a master carries any seaman to sea without entering into an agreement with him as hereby required, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, for each offence to incur a penalty not exceeding £5.]

Seamen
discharged.

167. [Seamen, having signed agreement, discharged before voyage, or earning of a month's wages, to have compensation not exceeding a month's wages.]

Allotment
notes.

169. [Allotment notes of part of wages may be sued on summarily by certain persons and under certain conditions.]

Discharge of
seamen.

170. [Discharge in United Kingdom from British foreign-going ships to be made before shipping master, under a penalty not exceeding £10.]

Account of
wages on
discharge.

171. [24 hours before discharge, master to deliver account of wages to seamen or shipping master before whom discharge takes places, under a penalty not exceeding £5.]

172. [On discharge, masters to give seamen certificates of discharge, specifying period of service and time and place of discharge, under a penalty not exceeding £10.] Certificate of service.

184. [In case of death before payment of wages, such wages to be paid as after mentioned in cases of death during voyage.] Death.

185. [In case of termination of service by wreck or illness, seaman to have wages to the time of such termination.] Wreck, &c.

186. [Wages not to accrue during refusal to work or imprisonment.] Suspension of wages.

187. [Master or owner of every ship to pay to every seaman his wages as follows ; (*i.e.*) In the case of a home trade ship within two days after termination of agreement, or when seaman discharged, whichever first happens ; and in the case of all other ships (except ships employed in the Southern Whale Fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after cargo delivered, or five days after seaman's discharge, whichever first happens ; and in all cases, seaman, at the time of his discharge, to be entitled to be paid on account a sum equal to one fourth part of the balance due to him. Master or owner neglecting or refusing to make payment as aforesaid without sufficient cause to pay to seaman a sum not exceeding two days pay for each day, not exceeding 10 days, during which payment delayed beyond period aforesaid, such sum to be recoverable as wages.] Period within which wages are to be paid.

188. [Seamen may sue for wages not exceeding £50 in a summary manner.] Summary recovery of wages.

194. [Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.] Deceased seamen's effects.

195. [Such effects and wages to be paid either to consul or to shipping master, with full accounts.]

196. [Penalties for not taking charge of, remitting, or accounting for such monies and effects.]

- Effects left abroad.** 197. [Officers of customs and consuls to take charge of effects not on board ship, left by seamen abroad, and to remit the same and their wages, under directions of Board of Trade, to paymaster general]
- Seamen dying at home.** 198. [Wages and effects of seamen dying at home to be paid to shipping master or Board of Trade.]
- Payment without probate, &c.** 199. [If less than £50, wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.]
- Wills.** 200. [As to payment under wills made by seamen.]
- Creditors.** 201. [Provision for payment of just claims by creditors and for preventing fraudulent claims.]
- Unclaimed wages.** 202. [As to wages, &c. of deceased seamen unclaimed for six years.]
- Forgery, &c.** 203. [Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.]
- Complaints by seamen.** 232. [Seamen to be allowed to go ashore to make complaint to a justice; under a penalty not exceeding £10.]
- Charge on wages.** 233. [Sale of and charge upon wages to be invalid.]
- Penalty for overcharges by lodging house keepers.** 235. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding £10.
- Penalty for detaining seamen's effects.** 236. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding £10, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

See 2 & 3 Vict. c. 71. s. 14., ante p. 43.

237. Every person who, not being in Her Majesty's service, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding £20.

Persons not to go on board before the final arrival of ship without permission.

And the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices, and to be dealt with according to the provisions of this act.

238. If within 24 hours after the arrival of any ship at any port in the United Kingdom any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding £5.

Penalty for solicitations by lodging-house keepers, &c. within 24 hours after arrival.

239. [Misconduct endangering ship or life or limb a Misconduct misdemeanor.]

246. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband or consignee, may, in any place in Her Majesty's dominions, with or without the assistance of the local police officers or constables, who are hereby required to give the same, if required,.....apprehend him without first procuring a warrant, and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law, and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding 24 hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appear to the court before which the case is brought to have been made on improper or insufficient grounds, the master, mate, owner,

Master, owner, &c. may apprehend deserters, without warrant.

ship's husband, or consignee who makes the same, or causes the same to be made, shall incur a penalty not exceeding £20; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Penalties for
enticing to
desert, and
harbouring
deserters.

257. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding £10.

And every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding £20.

PART VIII.

Regulations to
be observed by
dealers in
marine stores;*
penalties.

480. Every person dealing in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description, shall conform to the following regulations; (that is to say,)

(1.) He shall have his name, together with the words "dealer in marine stores," painted distinctly in letters of not less than six inches in length on every warehouse or other place of deposit belonging to him;

If he does not he shall incur a penalty not exceeding £20.

(2.) He shall keep a book or books, fairly written, and shall enter therein an account of all such marine stores as he may from time to time become possessed of, stating, in respect of each article, the time at which and the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode;

If he does not he shall incur for the first offence a penalty not exceeding £20, and for every subsequent offence a penalty not exceeding £50.

(3.) He shall not, by himself or his agents, purchase marine stores of any description from any person apparently under the age of 16 years;

* See also the act "for regulating the business of dealers in old metals," 24 & 25 Vict. c. 110., *post*, p. 323.

If he does so he shall incur for the first offence a penalty not exceeding £5, and for every subsequent offence a penalty not exceeding £20 :

- (4.) He shall not cut up any cable, or any similar article, exceeding five fathoms in length, or unlay the same into twine or paper stuff, on any pretence whatever, without obtaining such permit and publishing such notice of his having so obtained the same as is herein-after-mentioned ;

If he does so he shall incur for the first offence a penalty not exceeding £20, and for every subsequent offence a penalty not exceeding £50.

See also 2 & 3 Vict. c. 47. s. 26., ante, p. 16, and c. 71. ss. 24-29., ante, pp. 46-48.

481. In order to obtain such permit as aforesaid a dealer in marine stores shall make a declaration before some justice having jurisdiction over the place where such dealer resides containing the following particulars ; (that is to say,)

Manner of obtaining permit to cut up cables.

- (1.) A statement of the quality and description of the cable or other like article about to be cut up or unlayd :
- (2.) A statement that he purchased or otherwise acquired the same bona fide and without fraud, and without any knowledge or suspicion that the same had been come by dishonestly :
- (3.) A statement of the name and description of the person from whom he purchased or received the same :

And it shall be lawful for the justice before whom any such declaration is made, or for the receiver of the district in which such dealer in marine stores resides, upon the production of any such declaration as aforesaid, to grant a permit authorizing him to cut up or unlay such cable or other like article.

482. No dealer in marine stores who has obtained such permit as aforesaid shall proceed by virtue thereof to cut up or unlay any cable or other like article until he has for the space of one week at the least before doing any such act published in some newspaper published nearest to the place where he resides one or more advertisements notifying the fact of his having so obtained a permit, and specifying the nature of the cable or other article mentioned in the permit, and the place where the same is deposited, and the

Permit to be advertised before dealer proceeds to act thereon ;

time at which the same is intended to be so cut up or unlaid ;

and if any person suspects or believes that such cable or other article is his property, he may apply to any justice for a warrant ; and such justice may, on the applicant making oath, or, if a person entitled to make an affirmation, making an affirmation in support of such his suspicion or belief, grant a warrant by virtue whereof the applicant shall be entitled to require the production by such dealer as aforesaid of the cable or other article mentioned in the permit, and also of the book of entries herein-before directed to be kept by every dealer in marine stores ; and, upon such cable or other article and book of entries being produced, to inspect and examine the same ;

penalty for
default.

and if any dealer in marine stores makes default in complying with any of the provisions of this section, he shall for the first offence incur a penalty not exceeding £20, and for every subsequent offence a penalty not exceeding £50.

Manufacturers
to place marks
on anchors ;

penalty.

483. Every manufacturer of anchors shall, in case of each anchor, mark in legible characters on the crown and also on the shank under the stock his name or initials, with the addition of a progressive number and the weight of such anchor ; and if he makes default in doing so he shall for each offence incur a penalty not exceeding £5.

PART X.

Recovery of
penalties.

518. [Every offence hereby made punishable by any penalty not exceeding £100 to be prosecuted summarily before two or more justices, in manner directed by 11 & 12 Vict. c. 43., or in such other manner as may be directed by any act or acts that may be passed for like purposes :.....

In all cases of summary convictions where the sum adjudged to be paid exceeds £5, or imprisonment adjudged exceeds one month, any person who thinks himself aggrieved may appeal to the court of general or quarter sessions.].....

See 2 & 3 Vict. c. 71. ss. 14., 44, 45, 48-50, ante, pp. 43, 54-56.

Offence where
deemed to have
been com-
mitted.

520. For the purpose of giving jurisdiction under this act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

524. Any court, justice, or magistrate imposing any penalty under this act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; [subject to such directions or specific application, all penalties to be carried to consolidated fund.] Application of penalties.

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56; see also, 18 & 19 Vict. c. 126. s. 22., post, p. 383.

525. [No conviction for any offence or order for payment of money to be made under this act in any summary proceeding instituted in the United Kingdom, unless proceeding commenced within six months after commission of offence or cause of complaint arose; or if both or either of the parties happen during such time to be out of the United Kingdom, unless commenced within two months after both first happen to arrive or to be at one time within the same.] Limitation of time in summary proceedings.

TABLE Q. (See section 126.)

Sums to be deducted from wages by way of partial repayment of fees in Table P.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

s. d.

From wages of any mate, purser, engineer, surgeon, carpenter or steward	-	-	1	6
„ all others except apprentices	-	-	1	0

2. In respect of engagements and discharges of seamen separately, upon each engagement and each discharge,

One shilling.

17 & 18 VICT. c. 120.

16. If a native of any country in Asia, Africa, or of any of the islands in the South Sea or the Pacific Ocean, or of any other country not having any consul in the United Kingdom, is brought to the United Kingdom in any ship, British or foreign, as a seaman, and is left in the United Kingdom, and within six months of his being so left becomes chargeable upon the poor rate, or commits any act Penalty on masters of ships, &c. leaving certain seamen in distress in this country.

by reason of the committal whereof he is liable to be convicted as an idle and disorderly person, or any other act of vagrancy, the master or owner of the said ship, or in case of a foreign ship the person who is consignee of the ship at the time of the seaman being so left as aforesaid, shall incur a penalty not exceeding £30, unless he can show that the person so left as aforesaid quitted the ship without the consent of the master, or that due means have been afforded by such master, owner, or consignee, or one of them, to such person, of returning to his native country, or to the country in which he was shipped; and the court inflicting such penalty may order the whole or any part of such penalty to be applied towards the relief or sending home of such person.

See also 18 & 19 Vict. c. 91. s. 22. infra.

18 & 19 VICT. c. 91.

PART X. of
Merchant
Shipping Act,
1854.

—
Jurisdiction in
case of offences
on board ship.

21. If any British subject, charged with having committed any crime or offence on board any British ship on the high seas or in any foreign port or harbour, or if a person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits: Provided that nothing contained in this section shall be construed to interfere with 12 & 13 Vict. c. 96.

Relief of des-
titute natives of
India.

22. [East India Company to take charge of and send home or otherwise provide for all Lascars or other natives of territories under the government of the said company, found destitute in the United Kingdom; and if relieved and maintained by guardians, overseers, or others administering the relief of the poor, such overseers, guardians, or others may, by letter or otherwise, give notice thereof in writing to the Secretary of the Court of Directors of the East India Company, specifying, so far as is practicable, certain prescribed particulars: And East India Company to repay monies duly expended in relieving or maintaining such destitute person, after the sending or giving of such notice.]

See 21 & 22 Vict. c. 106. s. 64., making applicable provisions concerning India to Secretary of State for India

in Council, in the place of the East India Company and the Court of Directors thereof.

23. [Contracts may be made with natives in India, under certain conditions, binding them to go to the United Kingdom, and then to enter into further agreement to serve in other ships back to India.]

Contracts with natives of India as to service in ships.

REGULATION OF DEALERS IN OLD METALS.

24 & 25 VICT. c. 110.

Whereas [&c., reference to 17 & 18 Vict. c. 104. s. 480.] and such provisions have been found beneficial in diminishing the facilities for disposing of stolen goods; and it is expedient that similar provisions should be enacted for the regulation of the business of all dealers in old metals which afford facilities for the disposing of stolen goods.

1. [Short title.]

2. [Commencement of act, viz., 1st January 1862.]

3. In the construction and for the purposes of this act the term "dealer in old metals" shall mean any person dealing in, buying, and selling old metal, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, and whether such person deals in such articles only, or together with second-hand goods or marine stores, and the term "old metals" shall mean the said articles.

Definition of terms.

4. It shall be lawful for any justice, upon complaint made before him upon oath that the complainant has reason to believe and does believe that any old metal stolen or unlawfully obtained is kept in any house, shop, room, or place by any dealer in old metals within the limits of the jurisdiction of such justice, to give authority, by special warrant, to any constable or police officer to enter in the daytime such house, shop, room, or other place, with such assistance as may be necessary, and to search for and seize all such old metals there found, and to carry all the articles so seized before the justice issuing the said warrant, or some other justice exercising similar jurisdiction, and such justice shall thereupon issue a summons requiring such dealer to appear before two justices, at a time and place to be named in such summons, and if such dealer shall not then and there prove to the satis-

Power to issue search warrant for stolen property.

Penalty on dealer in old metals being in possession of stolen property.

faction of such justices how he came by the said articles, or if any such dealer shall be found in possession of any old metal which has been stolen or unlawfully obtained, and on his being taken or summoned before two justices it shall be proved to the satisfaction of such justices that at the time when he received it he had reasonable cause to believe it to have been stolen or unlawfully obtained, then in either of such cases such dealer shall be liable to a penalty not exceeding £5, and for any subsequent offence to a penalty not exceeding £20, or at the discretion of the justices in the case of such second or subsequent offence shall be imprisoned and kept to hard labour for any period not exceeding three calendar months :

Saving for proceeding by indictment.

Provided always, that nothing herein contained shall interfere with or affect any proceeding by indictment to which such dealer in old metals may be liable for feloniously and knowingly receiving stolen goods, but no person shall be prosecuted by indictment and proceeded against under this act for the same offence.

See 2 & 3 Vict. c. 71. ss. 14, 24-29. ante, pp. 43, 46-48.

Justices may order dealer to be registered.

5. When any dealer in old metals is convicted of either of the offences aforesaid, it shall be lawful for such justices, or, on proof of such conviction, for any other two justices of the same petty sessional district of a county, or city, or borough, on proof of such conviction, to order and direct that such dealer shall be registered at the principal police office of such district or city or borough in a book to be kept by the chief officer of police for the purpose, according to the form No. 1. in the schedule to this act annexed, and from and after such registration such dealer shall be subject to and shall conform to the several regulations herein-after provided, for such period, not exceeding three years, as such justices shall order ;

and if such dealer shall during such period be convicted of any offence under this act, the justices so convicting him may order such period to be extended for not more than three years from the time when such period would otherwise expire ; and in like manner, whilst such dealer is subject to the regulations of this act, on any further conviction under this act, and as often as such further conviction shall take place, the justices so convicting him may order the period for which he is then subject to such regulations to be extended for not more than three years from the time when such period would otherwise expire :

Provided always, that where any dealer in old metals who is also a dealer in marine stores within the meaning of the 480th section of the Merchant Shipping Act, 1854, is registered as aforesaid, he shall likewise conform to the regulations contained in the said section of the said act, and shall be liable to the penalties in the said section provided for not conforming to such regulations.

See 2 & 3 Vict. c. 71. s. 14., ante p. 43.

6. Every dealer in old metals who is subject to the regulations of this act as aforesaid shall, upon removing to any other place of business, give notice of such removal at the police office where he is registered, and if he shall continue to carry on business as a dealer in old metals without giving such notice he shall incur a penalty not exceeding £5, and a penalty not exceeding 10s. for every day after the first on which he continues to carry on such business without giving such notice ;

Dealer to give notice of change of place of business ;

penalty.

and where such dealer shall remove to any place out of the petty sessional district of a county or the city or borough in which he has been registered, it shall be the duty of the superintendent of police for such district, city, or borough to transmit a certificate of such registration, signed by himself, which shall be evidence of such registration, together with a certified copy of any order of justices, as to the period for which such dealer is to be subject to the regulations of this act, to the clerk of the justices for the district, city, or borough in which such dealer has taken up his residence, and any of the justices of such district, city, or borough may thereupon issue a summons to such dealer to appear before two justices, and if it shall appear to such justices that he intends carrying on business as a dealer in old metals, such justices may order him to be registered in the same manner as provided in the 5th section of this act, and such registration shall have the same effect, during the period for which such dealer is to be subject to the regulations of this act by any order of justices as aforesaid, as in the said section provided.

Notice to be given by superintendent of police on removal of dealer out of petty sessional district.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

7. It shall be lawful for two justices by order in writing to authorize one or more inspectors or sergeants of police to visit at any time the places of business and inspect the goods and books of dealers in old metals who are subject to the regulations of this act as aforesaid; and who carry on business within the district of a county or the city or borough for which such justices act, and every such inspec-

Power to authorize inspectors and sergeants of police to visit places of business of registered dealers in old metals.

tor or serjeant shall and is hereby empowered to record in the book herein-after required to be kept by every such dealer in old metals the day and hour of his visit, and place opposite the entry of every article examined by him his initials or name in attestation of the same.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Regulations to be observed by registered dealers in old metals.

8. Every dealer in old metals who is registered as aforesaid shall, during the period which the justices shall order, as above provided, conform to the following regulations; (that is to say,)

- (1.) He shall keep a book or books fairly written, and shall enter therein, according to the form No. 2. in the schedule to this act annexed, an account of all such old metals as he may from time to time become possessed of, stating in respect of each article the name of the person who purchased or received the same, and the time at which and the name of the person from whom he purchased or received the same, adding in the case of every such last-mentioned person a description of his business and place of abode; and he shall also enter in such book or books, according to the form No. 3. in the schedule to this act annexed, an account of all such old metals as he may from time to time sell or dispose of, stating in respect of such old metals the name of the person to whom he sold or disposed of the same, adding a description of his business and place of abode; and every such entry in such book or books shall be deemed and taken, unless the contrary be shown, to have been made by or with the authority of the dealer in old metals to whom such book or books belong:
- (2.) He shall not by himself or any other person purchase or receive any old metals of any description before the hour of nine in the morning nor after the hour of six in the evening, nor shall he by himself or any other person purchase or receive old metals of any description from any person apparently under the age of 16 years, nor shall he employ any servant or apprentice or any other person under the age of 16 years to purchase or receive old metals of any description:
- (3.) He shall produce to any inspector or serjeant of police, authorized as in the last preceding section provided, whenever thereto requested, the book or books required to be kept as aforesaid, and any old

metals purchased or received by him then in his possession; and such old metals shall be deemed to be in the possession of such dealer when they are placed in any house, outhouse, yard, garden, or place occupied by him, or shall have been removed with his knowledge and permission to any other place without a bona fide sale of such old metals having been made by him:

- (4.) He shall without delay give notice to the officer on duty at the police station nearest to the place where he carries on business of any articles then in his possession or which shall thereafter come into his possession answering the description of any articles which have been stolen, embezzled, or fraudulently obtained, of which printed or written information, containing a description of such articles, is given to him by any officer of police:
- (5.) He shall keep all old metals purchased or received by him without changing the form in which such articles were when so purchased, or disposing of the same in any way for a period of 48 hours after such article has been purchased or received:

For any act or default contrary to the foregoing regulations done or made by any registered dealer in old metals, during the period which the justices shall order as above provided, he shall incur a penalty of not less than 20s. and not exceeding £5, and for every subsequent offence a penalty of not less than £5 and not exceeding £20.

9. [Penalties and costs to be recoverable summarily before two justices under 11 & 12 Vict. c. 43.] And where any costs or expenses are incurred in or about the prosecution or carrying into effect of this act, which are not recoverable under the provisions of the above act, it shall be lawful for any two justices, if they shall think fit, to order the same to be paid to the party incurring the same out of the same fund and in the same manner as is directed by 7 Geo. 4. c. 64. in cases of felony and misdemeanor.

Recovery of penalties; costs of prosecutions.

See as to recovery of penalties, 2 & 3 Vict. c. 71. s. 45., ante, p. 55. For 7 Geo. 4. c. 64., see post, p. 337.

10. The justices imposing any penalty under this act may, if they shall think fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in and towards payment of the

Application of penalties.

expenses of the proceedings ; [subject to such directions or specific application as aforesaid, all penalties to be paid to treasurer of the county, &c.]

See 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

Appeal.

11. [Appeal to general or quarter sessions from convictions under 4th section, and from other convictions where a sum exceeding £5 is adjudged to be paid.]

Provided always, that in case the conviction appealed against shall be under the 4th section of this act, and an order for registration has been made on such conviction, the party so convicted shall not be subject to the regulations of this act until after such appeal is heard and determined against such party.

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

12. [Act to extend to England only.]

SCHEDULE.

No. 1.

Register of Dealers in old Metals.

Date of registration.	Date of conviction.	Period for which to be subject to regulations of this act.	Name.	Place of abode and business.

No. 2.

Entry of Purchases and Receipts.

Day of purchase or receipt, and hour of day.	Description of old metal purchased or received.	Name and surname of person who purchased or received.	Name and surname of person from whom purchased or received.	Business and place of abode of person from whom purchased or received.

No. 3.

Entry of Sales.

Day of sale.	Description of old metal sold.	Name and surname of person to whom sold.	Business and place of abode or business of person to whom sold.

PROTECTION OF WOMEN DESERTED BY THEIR HUSBANDS.

20 & 21 VICT. c. 85.

21. A wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or if resident in the country to justices in petty sessions, or in either case to the court,* for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of, after such desertion, against her husband or his creditors, or any person claiming under him; and such magistrate, or justice, or court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion from her husband and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a feme sole :

Wife deserted by her husband may apply to a police magistrate or justices in petty sessions for protection.

Provided always, that every such order, if made by a police magistrate or justices at petty sessions, shall, within 10 days after the making thereof, be entered with the registrar of the county court within whose jurisdiction the wife is resident; and it shall be lawful for the husband, and any creditor or other person claiming under him, to apply to the court, or to the magistrate or justices by whom such order was made, for the discharge thereof :

Provided also, that if the husband or any creditor or person claiming under the husband shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid.

If any such order of protection be made, the wife shall during the continuance thereof be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts, and suing and being sued, as she would be under this act if she obtained a decree of judicial separation.

Effect of order of protection.

25. In every case of a judicial separation the wife shall, from the date of the sentence and whilst the separation shall continue, be considered as a feme sole with respect to property of every

In case of judicial separation the wife to be considered a

feme sole with respect to property she may acquire, &c.:

description which she may acquire or which may come to or devolve upon her ; and such property may be disposed of by her in all respects as a feme sole, and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead.

also for purposes of contract and suing.

26. In every case of a judicial separation the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract, and wrongs and injuries, and suing and being sued, in any civil proceeding ; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant.

21 & 22 VICT. c. 108.

Provisions respecting property of wife to extend to property vested in her as executrix, &c.

7. The provisions contained in this act and in 20 & 21 Vict. c. 85. respecting the property of a wife who has obtained a decree for judicial separation or an order for protection, shall be deemed to extend to property to which such wife has become or shall become entitled as executrix, administratrix, or trustee since the sentence of separation or the commencement of the desertion (as the case may be) ; and the death of the testator or intestate shall be deemed to be the time when such wife became entitled as executrix or administratrix.

Order for protection of earnings, &c. of wife to protect dealings with wife before reversal of order, &c.

8. In every case in which a wife shall under this act or under 20 & 21 Vict. c. 85. have obtained an order to protect her earnings or property, or a decree for judicial separation, such order or decree shall, until reversed or discharged, so far as necessary for the protection of any person or corporation who shall deal with the wife, be deemed valid and effectual ; and no discharge, variation, or reversal of such order or decree shall prejudice or affect any rights or remedies which any person would have had in case the same had not been so reversed, varied, or discharged, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the making such order or decree and of the discharge, variation, or reversal thereof ; and property of or to which the wife is possessed or entitled for an estate in remainder or reversion at the date of the desertion or decree (as the case may be) shall be deemed to be included in the protection given by the order or decree.

Order to state the time at which the

9. Every order which shall be obtained by a wife under 20 & 21 Vict. c. 85., or under this act, for the protection

of her earnings or property, shall state the time at which the desertion in consequence whereof the order is made commenced; and the order shall, as regards all persons dealing with such wife in reliance thereon, be conclusive as to the time when such desertion commenced.

desertion
commenced.

10. All persons and corporations who shall, in reliance on any such order or decree as aforesaid, make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same, shall, notwithstanding such order or decree may then have been discharged, reversed, or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the order or decree been discontinued, be protected and indemnified in the same way in all respects as if, at the time of such payment, transfer, or other act, such order or decree were valid and still subsisting without variation in full force and effect, and the separation of the wife from her husband had not ceased or been discontinued, unless at the time of such payment, transfer, or other act such persons or corporations had notice of the discharge, reversal, or variation of such order or decree, or of the cessation or discontinuance of such separation.

Indemnity to
corporations,
&c. making
payments under
orders after
reversal, &c.,
but without
notice.

PREVENTION OF PERSONS GOING ARMED BY NIGHT FOR DESTRUCTION OF GAME.*

9 GEO. 4. c. 69.

1. If any person shall, after the passing of this act, by night, unlawfully take or destroy any game or rabbits in any land, whether open or inclosed, or shall by night unlawfully enter or be in any land, whether open or inclosed, with any gun, net, engine, or other instrument, for the purpose of taking or destroying game, such offender shall, upon conviction thereof before two justices, be committed for the first offence to the common gaol or house of correction for any period not exceeding three calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, himself in £10, and two sureties in £5 each, or one surety in £10, for his not so offending again for the space of one year next following, and in case of not finding such sureties shall be further imprisoned and kept to hard labour for the space of six calendar months, unless such sureties are sooner found;

Persons taking
or destroying
game by night
to be com-
mitted,

for the first
offence for
three months,
and kept to
hard labour,
and to find
sureties;

* Extended by 7 & 8 Vict. c. 29., *post*, p. 334.

second offence, six months, and kept to hard labour, and to find sureties ;

third offence, to be liable to transportation.

and in case such person shall so offend a second time, and shall be thereof convicted before two justices, he shall be committed to the common gaol or house of correction for any period not exceeding six calendar months, there to be kept to hard labour, and at the expiration of such period shall find sureties by recognizance, himself in £20 and two sureties in £10 each, or one surety in £20, for his not so offending again for the space of two years next following, and in case of not finding such sureties shall be further imprisoned and kept to hard labour for the space of one year, unless such sureties are sooner found ; and in case such person shall so offend a third time he shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond seas for seven years, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding two years

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43 ; see also 24 & 25 Vict. c. 96. s. 17., post, p. 420. As to transportation, see 20 & 21 Vict. c. 3. s. 2., post, p. 412.

Owners or occupiers of land, lords of manors, &c. or their servants, may apprehend offenders ;

offenders assaulting or offering violence deemed guilty of misdemeanor, and liable to be transported for seven years, or imprisoned for 2 years.

2. Where any person shall be found upon any land committing any such offence as is herein-before mentioned it shall be lawful for the owner or occupier of such land, or for any person having a right or reputed right of free warren or free chase thereon, or for the lord of the manor or reputed manor wherein such land may be situate, and also for any gamekeeper or servant of any of the persons herein mentioned, or any person assisting such gamekeeper or servant, to seize and apprehend such offender upon such land, or in case of pursuit being made in any other place to which he may have escaped therefrom, and to deliver him as soon as may be into the custody of a peace officer, in order to his being conveyed before two justices ; and in case such offender shall assault or offer any violence with any gun, crossbow, fire arms, bludgeon, stick, club, or any other offensive weapon whatsoever, towards any person hereby authorized to seize and apprehend him, he shall, whether it be his first, second, or any other offence, be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond seas for seven years, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding two years

See note on s. 1. ; see also 14 & 15 Vict. c. 19. s. 12., post, p. 335, and 24 & 25 Vict. c. 100. ss. 18. 38., post, pp. 514, 520.

3. Where any person shall be charged on the oath of a credible witness before any justice, with any offence punishable upon summary conviction by virtue of this act, the justice may issue his warrant for apprehending such person, and bringing him before two justices, to be dealt with according to law.

Power to issue a warrant for apprehension of offenders.

See 2 & 3 Vict. c. 71. ss. 14, 25., ante pp. 43, 45.

4. The prosecution for every offence punishable upon summary conviction by virtue of this act shall be commenced within six calendar months after the commission of the offence; and the prosecution for every offence punishable upon indictment, or otherwise than upon summary conviction, by virtue of this act, shall be commenced within twelve calendar months after the commission of such offence.

Limitation of time for proceedings under this act.

5. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

6. [Appeal to general or quarter sessions.]

See 2 & 3 Vict. c. 71. s. 50. ante, p. 56.

7. [No certiorari, &c.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

8. [Convictions to be returned to the quarter sessions.]

9. If any persons, to the number of three or more together, shall by night unlawfully enter or be in any land, whether open or inclosed, for the purpose of taking or destroying game or rabbits, any of such persons being armed with any gun, crossbow, fire arms, bludgeon, or any other offensive weapon, each and every of such persons shall be guilty of a misdemeanor, and being convicted thereof before the justices of gaol delivery, or of the court of great sessions of the county or place in which the offence shall be committed, shall be liable, at the discretion of the court, to be transported beyond seas for any term not exceeding 14 years nor less than seven years, or to be imprisoned and kept to hard labour for any term not exceeding three years

If persons to the number of three, being armed, enter any land for the purpose of taking or destroying game, &c. they shall be deemed guilty of a misdemeanor.

See 14 & 15 Vict. c. 19. s. 11. post p. 335. As to transportation, see 20 & 21 Vict. c. 3. s. 2., post, p. 412.

12. Provided always, that for the purposes of this act the night shall be considered and is hereby declared to commence at the expiration of the first hour after sunset, and to conclude at the beginning of the last hour before sunrise.

What time shall be considered night.

What shall be
deemed game.

13. For the purposes of this act the word "game" shall be deemed to include hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards.

7 & 8 VICT. c. 29.

Punishments
and forfeitures
imposed by
9 Geo. 4. c. 69.
on persons by
night destroy-
ing game or
rabbits in open
or inclosed
land extended
to persons com-
mitting like
acts on public
roads, &c.

[Recites 9 Geo. 4. c. 69. ss. 1, 2. against destroying by night game or rabbits on open or inclosed land, &c., and the expediency of extending the remedies provided by the said act against offences therein mentioned to the like offences committed "upon public roads and highways, and " other roads and paths leading through such lands, and " also at the gates, outlets, and openings between such " lands and roads, highways and paths."]

All the pains, punishments, and forfeitures imposed by the said act upon persons by night unlawfully taking or destroying any game or rabbits in any land, open or inclosed, as therein set forth, shall be applicable to and imposed upon any person by night unlawfully taking or destroying any game or rabbits on any public road, highway, or path, or the sides thereof, or at the openings, outlets, or gates from any such land into any such public road, highway, or path, in the like manner as upon any such land, open or inclosed; and it shall be lawful for the owner or occupier of any land adjoining either side of that part of such road, highway, or path where the offender shall be, and the gamekeeper or servant of such owner or occupier, and any person assisting such gamekeeper or servant, and for all the persons authorized by the said act to apprehend any offender against the provisions thereof, to seize and apprehend any person offending against the said act or this act; and the said act, and all the powers, provisions, authorities, and jurisdictions therein or thereby contained or given, shall be as applicable for carrying this act into execution as if the same had been herein specially set forth.

PREVENTION OF OFFENCES.

14 & 15 VICT. c. 19.

Indictment for
feloniously
cutting, &c.

5. [On the trial of any indictment for feloniously cutting, &c. the jury may acquit of the felony, and convict of unlawfully cutting, &c., and thereupon defendant to be

punished as if convicted on an indictment for the misdemeanor of cutting, &c.]

11. It shall be lawful for any person to apprehend any person found committing any indictable offence in the night, and to convey him, or deliver him to some constable or other peace officer, in order to his being conveyed, as soon as conveniently may be, before a justice, to be dealt with according to law.

Any person may apprehend persons committing indictable offences in the night.

12. If any person liable to be apprehended under this act assault or offer any violence to any person by law authorized to apprehend or detain him, or to any person acting in his aid and assistance, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years.

Assault on a person entitled to apprehend, a misdemeanor.

See also 24 & 25 Vict. c. 100. ss. 18. 38., post, pp. 514, 520.

13. The time at which the night shall commence and conclude in any offence against this act shall be the same as in cases of burglary.

Night, under this act, to be as in burglary.

14. In all prosecutions for any offence against this act, it shall be lawful for the court before which any such offence is prosecuted or tried to allow the expenses of the prosecution in all respects as in cases of felony.

Costs of prosecutions.

The sections omitted, except ss. 10. 15., are expressly repealed by 24 & 25 Vict. c. 95., post, p. 414, and ss. 10. 15. seem consequently virtually repealed.

PROTECTION OF APPRENTICES AND SERVANTS.

14 & 15 VICT. c. 11.

3. [A register to be kept of young persons hired or taken as servants from any workhouse. Not to supersede obligation to keep register of apprentices as required by 42 Geo. 3. c. 46. and 7 & 8 Vict. c. 101.]

Register of servants supplied from workhouse.

4. [Young persons hired from workhouses or bound out as pauper apprentices while under 16, and residing in the parish or union or within five miles of it, to be visited periodically by officer of guardians or overseers.]

Such servants and pauper apprentices while under 16 to be visited.

Provision as to servants and apprentices at a distance.

5. [Where young persons are hired by or bound to masters residing at a distance from unions or parishes, notice of hiring or apprenticeship to be given to the guardians, &c., of the parish, &c. where the master resides, who are to cause such young person to be registered and visited.]

8. [Interpretation of terms.]

The sections omitted are repealed by 24 & 25 Vict. c. 95., post, p. 414. For substituted provisions see 24 & 25 Vict. c. 100. ss. 26, 73., post, pp. 516, 529.

PROTECTION OF PUBLIC STATUES WITHIN THE METROPOLITAN POLICE DISTRICT.

17 & 18 VICT. c. 33.

Interpretation of terms.

1. [In the construction of this act "Metropolitan Police District" to be understood to describe the district defined under that name by 10 Geo. 4. c. 44.; "public statue" to include all the statues mentioned in the schedule, or hereafter erected, either wholly or in part, within any such public place as after mentioned; "public place" to include any street, square, court, or other like place within the Metropolitan Police District, into or upon or over which there is any public right of ingress, egress, and regress, or thoroughfare.]

Power to erect statues, &c.

2. [Commissioners of Works may erect statues in any public place, and enclose &c. the same.]

3. [And may also repair public statues, &c.]

4. [And do all acts necessary for the erection or reparation.]

5. [No public statue to be erected in any public place without the assent of the said Commissioners.]

6. [Punishment of persons damaging any public statue.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414. For substituted provision see 24 & 25 Vict. c. 97. s. 39., post, p. 468.

Transfer of statues to Commissioners of Works.

7. [Owners of statues not mentioned in schedule may transfer them to Commissioners of Works, with the assent of the Treasury; and upon the completion of such transfer the statue so transferred to be deemed a public statue within the intent of this act.]

SCHEDULE to the above act.

Statue of James II. in Whitehall Gardens, at the rear of Whitehall Chapel.

Statue to the Rt. Hon. George Canning, in Parliament Square, facing New Palace Yard.

Equestrian statue of Charles I. at Charing Cross.

Equestrian statue of George III. in Pall Mall East.

Equestrian statue of George IV. in Trafalgar Square.

Column and statue to Visc. Nelson, Trafalgar Square.

Equestrian statue to the Duke of Wellington on the Arch at Hyde Park Corner.

Statue in Hyde Park in commemoration of the victories of the Duke of Wellington.

Statue of George II. in Golden Square.

Statue of the Duke of Wellington on "Tower Green."

Statue of George III. in the Quadrangle of Somerset House.

Statue of Queen Anne in Queen Square, Saint George the Martyr.

Statue of the Duke of Kent, Park Crescent Gardens, Portland Place.

Statue to George II. in the square of the Royal Hospital, Greenwich.

Statue of Charles II. in the grounds of Chelsea Hospital.

OBLITERATING THE CROSSING OF CHEQUES.

21 & 22 VICT. c. 79.

1. 2. [The crossing of a cheque on a banker with the name of a banker, or with the words "and company," or any abbreviation thereof, to be deemed a material part of cheque.]

3. [Persons obliterating, &c. crossing, with intent to defraud, guilty of felony.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414. For substituted provision see 24 & 25 Vict. c. 98. s. 25., post, p. 487.

ADMINISTRATION OF CRIMINAL JUSTICE.

Provisions as to Costs, Rewards for Apprehension, &c.

7 GEO. 4. c. 64.

22. The court before which any person shall be prosecuted or tried for felony is hereby authorized and empowered, at the request of the prosecutor or of any other

Courts may order payment of expenses of prosecutions in cases of felony.

Allowance to persons attending on recognizance, where no bill is preferred.

person, who shall appear on recognizance or subpoena to prosecute or give evidence against any person accused of any felony, to order payment unto the prosecutor of the costs and expenses which such prosecutor shall incur in preferring the indictment, and also payment to the prosecutor and witnesses for the prosecution of such sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and witnesses for the expenses which they shall severally have incurred in attending before the examining magistrate and the grand jury, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein ; and although no bill of indictment be preferred, it shall still be lawful for the court, where any person shall, in the opinion of the court, *bonâ fide* have attended the court in obedience to any such recognizance or subpoena, to order payment unto such person of such sum of money as to the court shall seem reasonable and sufficient to reimburse such person for the expenses which he shall have *bonâ fide* incurred by reason of attending before the examining magistrate, and by reason of such recognizance or subpoena, and also to compensate such person for trouble and loss of time ; and the amount of the expenses of attending before the examining magistrate or magistrates, and the compensation for trouble and loss of time therein, shall be ascertained by the certificate of such magistrate or magistrates, granted before the trial or attendance in court, if such magistrate think fit to grant the same ; and the amount of all the other expenses and compensation shall be ascertained by the proper officer of the court, subject nevertheless to the regulations, to be established in the manner herein-after mentioned.

Courts may order payment of expenses of prosecution in certain cases of misdemeanor.

23. Where any prosecutor or other person shall appear before any court on recognizance or subpoena, to prosecute or give evidence against any person indicted of any assault with intent to commit felony, of any attempt to commit felony, of any riot, of any misdemeanor for receiving any stolen property, knowing the same to have been stolen, of any assault upon a peace officer in the execution of his duty, or upon any person acting in aid of such officer, of any neglect or breach of duty as a peace officer, of any assault committed in pursuance of any conspiracy to raise the rate of wages, of knowingly and designedly obtaining any property by false pretences, of wilful and indecent exposure of the person, of wilful and corrupt perjury or of subornation of perjury, every such court is hereby autho-

rized and empowered to order payment of the costs and expenses of the prosecutor and witnesses for the prosecution, together with a compensation for their trouble and loss of time, in the same manner as courts are herein-before authorized and empowered to order the same in cases of felony; and although no bill of indictment be preferred it shall still be lawful for the court where any person shall have bona fide attended the court, in obedience to any such recognizance, to order payment of the expenses of such person, together with a compensation for his trouble and loss of time, as in cases of felony. }

Allowance to persons attending on recognizance where no bill is preferred.

[Proviso. *This proviso is repealed by 14 & 15 Vict. c. 55. s. 1., post, p. 341.*]

24. [Order for payment to be made out by clerk of assize, &c., and paid by county treasurer.]

25. [How expenses shall be paid in places not contributing to the county rate.]

Amended by 5 & 6 Will. 4. c. 76. s. 113.

26. [Quarter sessions to make regulations as to rate of costs and expenses to be allowed.]

Repealed by 14 & 15 Vict c. 55. s. 4., post, p. 342.

27. [Proviso for payment of expenses in prosecutions in court of admiralty.]

See 7 & 8 Vict. c. 2. s. 1.

28. Where any person shall appear to any court of oyer and terminer, gaol delivery, superior criminal court of a county palatine or court of great sessions, to have been active in or towards the apprehension of any person charged with murder, or with feloniously and maliciously shooting at, or attempting to discharge any kind of loaded firearms at any other person, or with stabbing, cutting, or poisoning, or with administering anything to procure the miscarriage of any woman, or with rape, or with burglary, or felonious housebreaking, or with robbery on the person, or with arson, or with horse stealing, bullock stealing or sheep stealing, or with being accessory before the fact to any of the offences aforesaid, or with receiving any stolen property knowing the same to have been stolen, every such court is hereby authorized and empowered, in any of the cases aforesaid, to order the sheriff of the county in which the offence shall have been committed to pay to the person or persons who shall appear to the court

Courts may order compensation to those who have been active in the apprehension of certain offenders.

to have been active in or towards the apprehension of any person charged with any of the said offences, such sum or sums of money as to the court shall seem reasonable and sufficient to compensate such person or persons for his or their expenses, exertions and loss of time in or towards such apprehension ;

and where any person shall appear to any court of sessions of the peace to have been active in or towards the apprehension of any party charged with receiving stolen property, knowing the same to have been stolen, such court shall have power to order compensation to such person in the same manner as the other courts herein-before mentioned :

Provided always, that nothing herein contained shall prevent any of the said courts from also allowing to any such persons, if prosecutors or witnesses, such costs, expenses, and compensation as courts are by this act empowered to allow to prosecutors and witnesses respectively.

Extended by 14 & 15 Vict. c. 55. s. 8. post p. 342.

29. [Such orders to be paid by the sheriff, who may obtain repayment on application to treasury.]

If any man is killed in attempting to take certain offenders, court may order compensation to his family.

30. If any man shall happen to be killed in endeavouring to apprehend any person who shall be charged with any of the offences herein-before last mentioned, it shall be lawful for the court before whom such person shall be tried to order the sheriff of the county to pay to the widow of the man so killed, in case he shall have been married, or to his child or children in case his wife shall be dead, or to his father or mother in case he shall have left neither wife nor child, such sum of money as to the court in its discretion shall seem meet ; and the order for payment of such money shall be made out and delivered by the proper officer of the court unto the party entitled to receive the same, or unto some one on his or her behalf, to be named in such order by the direction of the court ; and every such order shall be paid by and repaid to the sheriff in the manner herein-before mentioned.

COSTS OF PROSECUTIONS FOR CONCEALING THE BIRTH OF CHILDREN.

1 VICT. c. 44.

[Recites 9 Geo. 4. c. 31. s. 14*.]

1. Where any prosecutor or other person shall appear before any court, on recognizance or subpoena, to prose-

Courts empowered to order payment

* 9 Geo. 4. c. 31. is repealed by 24 & 25 Vict. c. 95., *post*, p. 414.

cuter or give evidence against any person upon any charge of having so endeavoured to conceal the birth of any child, every such court is hereby authorized and empowered, whether any bill of indictment for such charge shall or shall not be actually preferred, to order payment of the costs and expenses of the prosecutor and witnesses for the prosecution, together with a compensation for their trouble and loss of time, in the same manner as courts are now by law authorized and empowered to order the same in cases of prosecutions for felony.*

of expenses of prosecutors and witnesses in prosecutions for concealing the birth of any child.

2. [Orders for payment of money in such cases to be the same as orders for payment of costs in cases of felony.]

EXPENSES OF PROSECUTIONS, AND APPREHENSION AND TRIAL OF OFFENDERS, IN CERTAIN CASES.

14 & 15 VICT. c. 55.

1. [So much of 7 Geo. 4. c. 64. s. 23. as provides that in cases of misdemeanor the power of ordering the payment of expenses and compensation shall not extend to the attendance before the examining magistrate, repealed.]

2. All the provisions of 7 Geo. 4. c. 64. as amended by this act, authorizing and empowering courts to order payment of costs and expenses, and compensation for trouble and loss of time, in cases of the several misdemeanors enumerated in s. 23. of the said act of King George the Fourth, and concerning orders for payment of such costs, expenses, and compensation, and the payment thereof, and all the provisions of any other act for, concerning, or applicable to the payment of such costs, expenses, and compensation in cases of the said misdemeanors, shall extend and be applicable in the case of any of the misdemeanors herein-after mentioned; namely, unlawfully and carnally knowing and abusing any girl being above the age of 10 years and under the age of 12 years; unlawfully taking or causing to be taken any unmarried girl, being under the age of 16 years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her; conspiring to charge any person with any felony, or to indict any person of any felony; conspiring to commit any felony.

Power of courts to allow expenses in prosecutions for certain misdemeanors extended to other misdemeanors.

* See 7 Geo. 4. c. 64., *ante*. The enactment in the text seems superseded in part by 24 & 25 Vict. c. 100. s. 77., *post* p. 530. That enactment does not seem to provide for the case of an indictment not being preferred.

Costs to parties bound to prosecute, &c. for common assaults.

3. [Parties bound by recognizance to prosecute or give evidence on bills of indictment for common assaults to be allowed costs as in cases of felony.]

4. [So much of 7 Geo. 4. c. 64. as empowers quarter sessions to make regulations as to costs and expenses, repealed.]

Regulations as to costs, &c.

5. [Secretary of State may revoke existing regulations, and make regulations as to costs, expenses, and compensations, and certificates to be granted by examining magistrates in respect of expenses and compensation.]

6. [Expenses and compensations to be ascertained according to such regulations, and magistrates certificate not to be conclusive, but not to be exceeded.]

7. [Act or regulations not to interfere with power to order payments in respect of extraordinary courage, diligence, and exertions.]

8. [Powers given to judges by 7 Geo. 4. c. 64. to order payments in respect of the apprehension of certain offenders extended to courts of sessions of the peace; such compensation to one person not to exceed £5.]

9. [Clerks of the peace, clerks of special and petty sessions and clerks of justices may be paid by salaries in lieu of fees.]

Remission by justices of fees.

12. [Where clerk paid by salary under this act, any justices or justice before whom any proceeding is had, whereon a fee is payable which should be accounted for by such clerk, or before whom any person is summoned for nonpayment of such fee, may remit same in whole or part for poverty or other reasonable cause, in their or his discretion.]

Amendment of Central Criminal Court Act.

13. [So much of 4 & 5 Will. 4. c. 36. as restrains justices of London and Westminster, the liberty of the Tower of London, the borough of Southwark, and Middlesex, Essex, Kent, and Surrey, from trying certain offences committed within the limits of that act, repealed: Such repeal not to give power to try offences restrained from being tried under 5 & 6 Vict. c. 38.]

11 & 12 Vict. cc. 42 & 43.

18. [Recites that by 11 & 12 Vict. c. 42. s. 13. provision is made for indorsing warrants by any officer within any of the isles of Guernsey, Jersey, Alderney, and Sark, who

has jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders, and that other provisions are made in same act, and in 11 & 12 Vict. c. 43. by reference to said section, and that doubts have arisen by whom warrants should be indorsed in the said isles pursuant to the said provisions.]

The bailiffs of Jersey and Guernsey respectively, or in their respective absence the lieutenant bailiffs of such islands respectively, within their respective bailiwicks or jurisdictions, the judge of Alderney, or in his absence any jurat of such island within such island, and the seneschal of Sark, or in his absence his deputy within such islands, shall have all such power and authority to indorse warrants as by the said acts respectively is given or expressed or intended to be given to any officer within any of such isles having jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders, and for such purpose shall have authority to administer an oath, and all the provisions of the said acts shall be construed as if the officers authorized to indorse warrants by this enactment had been so authorized by 11 & 12 Vict. c. 42. s. 13.

By whom
warrants to be
backed in the
Channel
Islands.

See 11 & 12 Vict. c. 42. s. 13., post, p. 344.

BACKING OF ENGLISH WARRANTS IN SCOTLAND, IRELAND, AND THE CHANNEL ISLANDS, AND VICE VERSÂ.

Indictable Offences.

11 & 12 VICT. c. 42.*

12. If any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice, or by any judge of Her Majesty's court of Queen's Bench, or justice of oyer and terminer or gaol delivery, for any indictable offence against the laws of that part of the United Kingdom, escape, go into, reside, or be, or be supposed or suspected to be, in any county or place in that part of the United Kingdom called Ireland, or if any person against whom a warrant shall be issued in any county or place in Ireland, by any justice, or by any judge of Her Majesty's Court of Queen's Bench there, or any justice of oyer and terminer or gaol delivery, for any crime or offence against the laws of that part of the United Kingdom, escape, go

English war-
rants may be
backed in
Ireland, and
vice versâ, in
the event of
parties
escaping.

* See also 14 & 15 Vict. c. 93., post, p. 347.

Warrants so
indorsed shall
be valid.

into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in that part of the United Kingdom called England or Wales, it shall and may be lawful for any justice in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant in manner herein-before mentioned, or to the like effect, and which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county or place where such warrant shall be so indorsed, to execute the said warrant in the county or place where the justice so indorsing it shall have jurisdiction, by apprehending the person against whom such warrant shall have been granted, and to convey him before the justice or justices who granted the same, or before some other justice or justices in and for the same county or place, and which said justice or justices before whom he shall be so brought shall thereupon proceed in such manner as if the said person had been apprehended in the said last-mentioned county or place.

English war-
rants may be
backed in the
isles of Man,
Guernsey,
Jersey, Alder-
ney, or Sark,
and vice versa.

13. If any person against whom a warrant shall be issued in any county, riding, division, liberty, city, borough, or place in England or Wales, by any justice, or by any judge of Her Majesty's court of Queen's Bench, or justices of oyer and terminer or gaol delivery, for any indictable offence, escape, go into, reside, or be, or be supposed or suspected to be, in any of the Isles of Man, Guernsey, Jersey, Alderney, or Sark, it shall be lawful for any officer within the district into which such accused person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, who shall have jurisdiction to issue any warrant or process in the nature of a warrant for the apprehension of offenders within such district, to indorse (K.) such warrant in the manner herein-before mentioned, or to the like effect; or if any person against whom any warrant or process in the nature of a warrant shall be issued in any of the isles aforesaid, escape, go into, reside, or be, or be supposed or suspected to be, in any county, riding, division, liberty, city, borough, or place in England or Wales, it shall be lawful for any justice in and for the county or place into which such person shall escape or go, or where he shall reside or be, or be supposed or suspected to be, to indorse (K.) such warrant

or process in manner herein-before mentioned; and every such warrant or process so indorsed shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same respectively was originally directed, and also to all constables and peace officers in the county, district, or jurisdiction within which such warrant or process shall be so indorsed to execute the same within the county, district, or place where the justice or officer indorsing the same has jurisdiction, and to convey such offender, when apprehended, into the county or district wherein the justice or person who issued such warrant or process shall have jurisdiction, and carry him before such justice or person, or before some other justice or person within the same county or district who shall have jurisdiction to commit such offender to prison for trial, and such justice or person may thereupon proceed in such and the same manner as if the said offender had been apprehended within his jurisdiction.

Warrants so indorsed to be valid.

Amended by 14 & 15 Vict. c. 55. s. 18., ante, p. 342.

14. If any person against whom a warrant shall be issued by any justice for any county or place within England or Wales, or Ireland, or by any judge of Her Majesty's court of Queen's Bench or justice of oyer and terminer or gaol delivery in England or Ireland, for any crime or offence against the laws of those parts respectively of the United Kingdom of Great Britain and Ireland, escape, go into, reside, or be, or be supposed or suspected to be, in any place in that part of the said United Kingdom called Scotland, it shall be lawful for the sheriff or steward depute or substitute, or any justice of the county or place where such person or persons shall go into, reside, or be, or be supposed or suspected to be, to indorse (K.) the said warrant in manner herein-before mentioned, or to the like effect, which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriff's officers, steward's officers, constables, and other peace officers of the county or place where such warrant shall be so indorsed, to execute the same within the county or place where it shall have been so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in England, Wales, or Ireland where the justice or justices who first issued the said warrant shall have jurisdiction in that behalf, and to carry him before such justice or justices, or before any other justice or justices of

English or Irish warrants may be backed in Scotland.

Warrants so indorsed to be valid.

and for the same county or place, to be there dealt with according to law, and which said justice or justices are hereby authorized and required thereupon to proceed in such and the same manner as if the said offender had been apprehended within his or their jurisdiction.

Scotch war-
rants may be
backed in
England or
Ireland.

Warrants so
indorsed to be
valid.

15. If any person against whom a warrant shall be issued by the lord justice general, lord chief justice clerk, or any of the lords commissioners of justiciary, or by any sheriff or steward depute or substitute, or justice of that part of the United Kingdom of Great Britain and Ireland called Scotland, for any crime or offence against the laws of that part of the United Kingdom, escape, go into, reside, or be, or shall be supposed or suspected to be, in any part or place in England or Ireland, it shall be lawful for any justice of the peace in and for the county or place into which such person shall escape or go, or where he shall reside or be, or shall be supposed or suspected to be, to indorse (K.) the said warrant in manner herein-before mentioned, and which said warrant so indorsed shall be a sufficient authority to the person or persons bringing the same, and to all persons to whom the same was originally directed, and also to all constables and other peace officers of the county or place where the justice so indorsing such warrant shall have jurisdiction, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person against whom such warrant shall have been granted, and to convey him into the county or place in Scotland next adjoining to that part of the United Kingdom called England, and carry him before the sheriff or steward depute or substitute, or one of the justices of such county or place, and which said sheriff, steward depute or substitute, or justice, is hereby authorized and required thereupon to proceed in such and the same manner, according to the rules and practice of the law of Scotland, as if the said offender had been apprehended within such county or place in Scotland last aforesaid.

SCHEDULE

(K.)

Indorsement in backing a warrant.

Whereas proof upon oath hath this day been made before
to wit } me, one of Her Majesty's justices of the peace for the said
[county] of that the name of J.S., to the within warrant sub-
scribed, is of the handwriting of the justice of the peace within mentioned;
I do therefore hereby authorize W. T., who bringeth to me this warrant,
and all other persons to whom this warrant was originally directed, or by
whom it may lawfully be executed, and also all constables and other
peace officers of the said [county] of to execute the same

11 & 12 Vict. c. 43.] BACKING OF ENGLISH WARRANTS, &c. 347

within the said last mentioned [county],* and to bring the said A.B., if apprehended within the same [county], before me, or before some other justice or justices of the peace of the same county, to be dealt with according to law.

Given under my hand, this

day of

18

J.L.

* The words following this asterisk are to be used only where the justice backing the warrant shall think fit, and may be omitted in backing English warrants in Ireland, Scotland, &c., or in backing Irish or Scotch warrants, &c. in England.

Summary Convictions and Orders.

11 & 12 VICT. c. 43.

3. Such of the provisions and enactments contained in 11 & 12 Vict. c. 42. as to the backing of any warrant, and the endorsement thereon by a justice or other officer, authorizing the person bringing such warrant, and all other persons to whom the same was originally directed, to execute the same within the jurisdiction of the justice or officer so making such indorsement, as are applicable to the provisions of this act, shall extend to all such warrants, and to all warrants of commitment issued under this act, as if the said provisions and enactments were here repeated and made parts of this act.

Backing of
warrants.

See 14 & 15 Vict. c. 55. s. 18., ante, p. 342.

EXECUTION OF IRISH WARRANTS IN ENGLAND, AND
VICE VERSÂ.

14 & 15 VICT. c. 93.

10. Whenever information shall be given to any justice that any person has committed or is suspected to have committed any treason, felony, misdemeanor, or other offence, within the limits of the jurisdiction of such justice, for which such person shall be punishable either by indictment or upon a summary conviction; or that any person has committed or is suspected to have committed any such crime or offence elsewhere out of the jurisdiction of such justice, either in Great Britain or Ireland, or in the isles of Man, Jersey, Guernsey, Alderney, or Sark, and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such justice; or that any person has committed or is suspected to have committed any crime or offence whatsoever on the high seas, or in any creek, harbour, haven, or other place in which the Admiralty of England or Ireland have or claim to have jurisdiction, or on land beyond the seas, for which an indictment can be legally preferred in any place in the United Kingdom of

Justice may
receive infor-
mation or
complaint,
as to offences
within his
jurisdiction;
as to offences
out of his
jurisdiction.

* Sic.

as to civil
cases.

England and Ireland,* and such person is residing or being, or is suspected to reside or be, within the limits of the jurisdiction of such justice; or whenever a complaint shall be made to any justice as to any other matter arising within the limits of his jurisdiction, upon which he shall have power to make a summary order, it shall be lawful for such justice to receive such information or complaint, and to proceed in respect to the same, subject to the following provisions:

It may be
verbal, and
without oath,
in certain
cases.

It must be in
writing, and on
oath, in certain
other cases.

Binding the
informant to
prosecute.

1. Whenever it is intended that a summons only shall issue to require the attendance of any person, the information or complaint may be made either with or without oath, and either in writing or not, according as the justice shall see fit:
2. But whenever it is intended that a warrant shall issue for the arrest or committal of any person, the information or complaint shall be in writing, and on the oath of the complainant or of some person or persons on his behalf:
3. Whenever any such information shall have been taken on oath and in writing that any person has committed or is suspected to have committed any indictable crime or offence, (or any offence for which such person shall be punishable upon summary conviction, and for whose arrest the justice shall issue a warrant,) it shall be lawful for the justice, if he shall see fit, to bind the informant or complainant by recognizance to appear at the court or place where the defendant is to be tried or the complaint is to be heard, to prosecute or give evidence, as the case may be, against such person:
4. [In summary proceedings complaints may be made for poor rate, &c. at any time after the date of the warrant; for wages, &c. within one year; for trespass, within two months; in other cases, within six months.]

11. [Appearance enforced by warrant, &c.; warrant, &c. to be signed by justice and to state shortly cause of complaint.]

To whom
warrants to be
addressed for
execution.

25. [Persons to whom warrants shall be addressed for execution to be—

1. As to offences punishable by indictment or on summary conviction, the sub-inspector or head constable of constabulary:
2. In other cases such sub-inspector or head constable, or such other person (not being the party interested) as the justices issuing same see fit

26. The execution of warrants so addressed to the sub-inspector or head constable of constabulary shall be subject to the following provisions : Execution of warrants.
3. [When it appears that the person against whom the warrant is issued is not to be found in the county to which such sub-inspector or head constable belongs, but elsewhere out of the said county, sub-inspector or head constable to certify on the warrant, according to the form (G b.), the place where he believes such person is to be found, and that he believes the signature to the warrant to be genuine, and transmit same to the inspector general of the constabulary force, to be backed as herein-after mentioned] : Certifying out of the county.
27. Whenever any warrant addressed to the sub-inspector of constabulary or to any head or other constable is so certified and transmitted to the said inspector general, the manner in which it shall be backed for execution elsewhere shall be as follows : Backing warrants in England, &c.
3. [Whenever it appears that the said person is to be found in some place in England or Scotland, or in the isles of Man, Guernsey, Jersey, Alderney, or Sark, it shall be lawful for inspector general, or either of the deputy inspectors general, to indorse the warrant, according to form (G c.), and it shall thereupon be lawful for any justice or officer having power to issue any warrant, or process in the nature of a warrant, for the arrest of offenders in any of the said places, upon proof on oath of the handwriting either of the inspector or deputy inspector general by whom the same is indorsed, or of the justice by whom the warrant was issued, to indorse same, according to the form (G c.), authorizing its execution within the jurisdiction of said justice or officer by the person bringing the same, or by any constable or other peace officer of the county or place where it is so indorsed : Inspector general, &c. to indorse ; and any justice, &c. may back.
- And said provisions also to apply to cases in which sub-inspector shall only certify that the signature to the warrant is genuine, but in which the place where the said person is to be found appears by other means than said certificate.] The above provisions also to apply to other cases.
28. Whenever a warrant is addressed to any other person or persons than the constabulary, and it appears that the person against whom the same was issued as the case may be, are not to be found within the county in which the justice issuing the same has jurisdiction, but Warrants addressed to other persons than the constabulary.

in some other place in Ireland, or in any of the places out of Ireland herein-before mentioned, it shall be lawful for any justice or other such officer as aforesaid of such place, upon proof on oath of the handwriting of the justice who signed the warrant, to indorse the same for execution in such place in like manner as herein-before provided as to any warrant indorsed by the inspector general of constabulary.

Backing warrants from England, &c. into Ireland.

29. Whenever any person against whom any warrant is issued by any justice or other such officer as aforesaid in England....., for any crime or offence, shall reside or be, or be suspected to reside or be, in any place in Ireland, it shall be lawful for the said inspector general or for either of the said deputy inspectors general, or for any justice of the said last-mentioned place, to indorse the same in like manner and upon like proof as aforesaid, authorizing the execution of the same within his jurisdiction.

30. [The above provisions to apply also to judges' warrants.]

Warrants so backed to be valid for execution,

but if the prosecutor or witnesses be on the spot, examinations may be taken.

31. Whenever any warrant, addressed either to the constabulary or to any other person, shall be so indorsed by the said inspector general or by either of the said deputies inspector general, or by any justice or other such officer as aforesaid, it shall be a sufficient authority to the person bringing such warrant, and also to all constables or peace officers of the county or place where such warrant shall be so indorsed, to execute the same by arrest, committal, or levy, as the case may be, within the jurisdiction of the said justice or officer, and in case of a warrant to arrest any person, to convey him when arrested before the justice or officer by whom the same was issued, or before some other justice or officer of the same county or place, to be dealt with according to law: Provided always, that if the prosecutor, or any of the witnesses for the prosecution, in cases of indictable offences, shall then be in the county or place where any person shall have been arrested under any warrant so backed as aforesaid, the constable or other person who shall have arrested such person shall, if so directed by the justice who shall have indorsed the warrant, bring the person so arrested before him or some other justice of the same county or place, who may thereupon take the examinations of such prosecutor or witnesses, and proceed in every respect as herein-before directed with respect to persons charged before a justice with an indictable crime or offence alleged to have been committed in any other county or place than that in which such person shall have been arrested.

33. Whenever the person to whom any warrant shall be so addressed, transmitted, or endorsed for execution shall be unable to find the person against whom such warrant has been issued,..... or to discover where such person is to be found, he shall return such warrant to the justices by whom the same was issued within such time as is fixed by such warrant (or within a reasonable time where no time is so fixed), and together with it a certificate (G a.) of the reasons why the same was not executed; and it shall be lawful for such justice to examine such person on oath touching the non-execution of such warrant, and to reissue the said warrant again, or to issue any other warrant for the same purpose from time to time as shall seem expedient.

Return of
unexecuted
warrants.

45. [Short Title "The Petty Sessions (Ireland) Act 1851."]

47. [Act to extend to Ireland only, except the provisions respecting the backing and execution of warrants and the taking of examinations.]

FORMS (G.)—INDORSEMENTS ON WARRANTS.

RETURN of no person or goods.

(1) *The person,*

or
sufficient goods of the person.

(1) (G b) I certify that after diligent search (and for the following reasons):

against whom the within warrant was issued, cannot be found.

Signed _____ { To whom this
warrant was
delivered for
execution.

This day of 185 .

CERTIFICATE of no person or goods.

(2) For constabulary—*certify.*

For bailiff—*make oath.*

(3) *is to be found,*

or
has goods.

(G c) I (2) that I have reason to believe that the person against whom the within warrant was issued (3)

at in the county of and that I believe the signature to the within warrant to be in the handwriting of the said justice.

Signed _____ { To whom this
warrant was
delivered for
execution.

This day of 185 .

To _____ of _____

BACKING by inspector general or other justice.

(*) For Commissioners of Police or constabulary—*certified*.
For bailiff—*proved on oath*.

(*) In backing warrant to arrest, add, if so intended—
add to bring the said person before me or some other justice of said county.

(G c) It being (*)
to me as above, I hereby indorse the
within warrant for execution in said
county of—(2) (or metropolitan
district or other place).

Signed _____

Inspector general (or deputy,
or justice).

This day of 185 .

To _____

APPREHENSION OF OFFENDERS ESCAPING FROM OR TO THE COLONIES.

6 & 7 VICT. c. 34.

Offenders in
the Colonies
escaping into
the United
Kingdom may
be there appre-
hended.

1. If any person charged with having committed any offence such as is herein-after mentioned * against the laws of any part of Her Majesty's dominions not being part of the United Kingdom of Great Britain and Ireland, and against whom a warrant shall have been issued for such offence by any person having lawful authority to issue the same within that part of Her Majesty's dominions where such offence shall have been committed, shall be in any place within the said United Kingdom, it shall be lawful, in Great Britain, for one of Her Majesty's Principal Secretaries of State, and in Ireland, for the Chief Secretary of the Lord Lieutenant of Ireland, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables and other peace officers in that part of the United Kingdom where the said warrant shall be so endorsed, to execute the said warrant, by apprehending the person against whom such warrant is directed, and to convey the said person before a justice for the county or other jurisdiction in which the supposed offender shall be apprehended, or in Scotland either before such justice of the peace or before the sheriff depute or substitute.

For appre-
hension of
offenders escap-
ing to the
Colonies.

2. If any person charged with having committed any offence such as is herein-after mentioned * in any part of Her Majesty's dominions, whether or not within the said United Kingdom, and against whom a warrant shall be

* See s. 10.

issued by any person or persons having lawful authority to issue the same, shall be in any other part of Her Majesty's dominions not forming part of the said United Kingdom, it shall be lawful for the Chief Justice or any other Judge of Her Majesty's superior court of law within that other part of Her Majesty's dominions where such person shall be to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and also to all persons to whom such warrant was originally directed, and also to all peace officers of the place where the warrant shall be so endorsed, to execute the same within the jurisdiction of the person by whom it shall be so endorsed, by apprehending the person against whom such warrant is directed, and to convey him before a magistrate or other person having authority to examine and commit offenders for trial in that part of Her Majesty's dominions.

3. It shall be lawful for any person duly authorized to examine and commit offenders for trial before whom any such supposed offender shall be brought as aforesaid, upon such evidence of criminality as would justify his committal if the offence had been committed in that part of Her Majesty's dominions, to commit such supposed offender to prison, there to remain until he can be sent back, in manner herein-after mentioned *, to that part of Her Majesty's dominions in which he is charged with having committed such offence; and immediately upon the committal of such person information thereof in writing under the hand of the committing magistrate, accompanied by a copy of the said warrant, shall be given, in Great Britain, to one of Her Majesty's Principal Secretaries of State, and in Ireland to the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's dominions to the governor or acting governor.

Offender may be committed to gaol until he can be sent back to the place where the offence was committed.

Information of committal to be given.

4. Provided always, that in every such case copies of the deposition upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Copies of depositions may be given in evidence.

5. It shall be lawful, in Great Britain, for any one of Her Majesty's Principal Secretaries of State, and in Ireland

Offenders apprehended to be sent to

* See s. 5.

place where
the offence was
committed ;

for the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's dominions for the governor or acting governor, by warrant under his hand and seal, to order any person who shall have been so apprehended and committed to gaol to be delivered into the custody of some person or persons, to be named in the said warrant, for the purpose of being conveyed into that part of Her Majesty's dominions in which he is charged with having committed the offence, and being delivered into the custody of the proper authorities there, to be dealt with in due course of law as if he had been there apprehended, and to order that the person so committed to gaol be so conveyed accordingly; and if the said person, after he shall have been so apprehended, shall escape out of any custody to which he shall have been committed as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions may be retaken upon an escape.

if not sent
within two
months after
committal, may
apply to be
discharged.

6. Where any person who shall have been committed to gaol under this act shall not be conveyed out of that part of Her Majesty's dominions in which he shall have been so committed to gaol within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he was committed by the readiest way out of that part of Her Majesty's dominions, it shall be lawful for any of Her Majesty's Judges in that part of Her Majesty's dominions in which such supposed offender shall be in custody, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to one of Her Majesty's Principal Secretaries of State in Great Britain, or in Ireland to the Chief Secretary of the Lord Lieutenant of Ireland, or to the governor or acting governor in any other part of Her Majesty's dominions, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such Judge or Judges why such discharge ought not to be ordered.

Persons appre-
hended if not
indicted within
six months,
or if not
convicted, may
be sent back.

7. In case any person apprehended under this act shall not be indicted for the offence for which he shall have been so apprehended within the period of six calendar months after his arrival in that part of Her Majesty's dominions in which he is charged to have committed the offence, or if upon his trial he shall be acquitted, it shall be lawful, in

Great Britain, for one of Her Majesty's Principal Secretaries of State, and in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and for the governor or acting governor in any other part of Her Majesty's dominions, if he shall think fit, upon the request of the person so apprehended, to cause such person to be sent back, free of cost to such person, and with as little delay as possible, to that part of Her Majesty's dominions in which he shall have been so apprehended.

8. The court before which any person apprehended under this act shall be prosecuted or tried within the said United Kingdom may order, if it shall think fit, that the expenses of apprehending and removing the prisoner from any part of Her Majesty's dominions not within the said United Kingdom to any place within the said United Kingdom shall be repaid to the person defraying the same, by the treasurer of the county or other jurisdiction in England or Ireland, or by the sheriff depute or substitute of the county in Scotland, in which the offence is charged to have been committed, the amount of such expenses being previously ascertained by an account thereof, verified by production of proper vouchers before two justices of such county or other jurisdiction, which last-mentioned justices shall examine into the correctness of the said account, and shall allow the same, or such part thereof as shall to them appear just and reasonable, under their hands and seals; and every treasurer, or sheriff depute or substitute, who shall pay the amount so ascertained, shall be allowed such payment in his accounts respecting the business of such county or other jurisdiction.

Providing for expense of removal of offenders to the United Kingdom.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

9. Provided always, that it shall not be lawful for any person to endorse his name on any such warrant, for the purpose of authorizing the apprehension of any person under this act, until it shall have been proved to him, upon oath or by affidavit, that the seal or signature upon the same is the seal or signature of the person having lawful authority to issue such warrant whose seal or signature the same purports to be.

Proof of the signature, &c. of the person issuing the original warrant.

10. Provided also, that it shall not be lawful for any person to endorse his name upon any such warrant, for the purpose of authorizing the apprehension of any person under this act, unless it shall appear upon the face of the said warrant that the offence which the person for whose apprehension the said warrant has been issued is charged

Warrant not to be endorsed for authorizing apprehension except in cases of treason and felony, &c.

to have committed is such that, if committed within that part of Her Majesty's dominions where the warrant is so endorsed, it would have amounted in law to a treason, or some felony such as the justices of the peace in general or quarter sessions assembled have not authority to try in England under the provisions of an act passed in the sixth year of the reign of Her Majesty, intituled "An act to define the jurisdiction of justices in general and quarter sessions of the peace," or unless the depositions appear sufficient to warrant the committal of such person for trial.

This enactment is to be read and construed as if the words in small type were omitted. 16 & 17 Vict. c. 118.

APPREHENSION OF CERTAIN OFFENDERS UNDER CONVENTION WITH FRANCE

6 & 7 VICT. c. 75.

Whereas by a convention between Her Majesty and the King of the French, signed at London, on the 13th day of February in the year 1843, the ratifications whereof were exchanged at London on the 13th day of March in the same year, it was agreed, "that the High Contracting Parties should, on requisition made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who, being accused of the crimes of murder (comprehending the crimes designated in the French penal code by the terms assassination, parricide, infanticide, and poisoning), or of an attempt to commit murder, or of forgery, or of fraudulent bankruptcy, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other; provided that this should be done only when the commission of the crime should be so established as that the laws of the country where the fugitive or person so accused should be found would justify his apprehension and commitment for trial if the crime had been there committed;" and it is by the said convention further stipulated, "that on the part of the British Government the surrender should be made only on the report of a judge or magistrate duly authorized to take cognizance of the acts charged against the fugitive in the warrant of arrest or other equivalent judicial document issued by a judge or competent magistrate in France, and likewise clearly setting forth the said acts;" and it is by the said convention further stipulated and agreed, "that the expenses of any detention and surrender made in virtue of the stipulations herein-before recited should be

“ borne and defrayed by the Government in whose name
 “ the requisition should have been made ; ” and it is by the
 said convention further stipulated and agreed, “ that the
 “ provisions of the said convention should not apply in any
 “ manner to crimes of murder, forgery, or fraudulent bank-
 “ ruptcy committed antecedently to the date thereof ; ” and
 it is by the said convention further stipulated and agreed,
 “ that the said convention should be in force until after
 “ the 1st day of January in the year 1844, after which
 “ date either of the High Contracting Parties should be at
 “ liberty to give notice to the other of its intention to
 “ put an end to it, and it should altogether cease and deter-
 “ mine at the expiration of six months from the date of
 “ such notice.”

1. In case requisition be duly made, pursuant to the said convention, in the name of the King of the French, by his ambassador or other accredited diplomatic agent, to deliver up to justice any person who, being accused of having committed, after the ratification of the said convention, the crime of murder (comprehending the crimes designated in the French penal code by the terms assassination, parricide, infanticide, and poisoning), or of an attempt to commit murder, or of forgery, or of fraudulent bankruptcy, within the territories and jurisdiction of the King of the French, is found within the dominions of Her Majesty, it shall be lawful for one of Her Majesty's Principal Secretaries of State by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices and other magistrates and officers of justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol, for the purpose of being delivered up to justice, according to the provisions of the said convention, and thereupon it shall be lawful for any justice, or other person having power to commit for trial persons accused of crimes against the laws of that part of Her Majesty's dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as according to the laws of that part of Her Majesty's dominions would justify the apprehension and committal for trial of the person so accused if the crime of which he or she is so accused had been there committed it shall be lawful for such justice or other person having power to commit as aforesaid to issue his warrant for the apprehension of such person, and also to commit the person so accused to gaol,

Certain offenders to be apprehended on requisition of the ambassador of the King of the French.

there to remain until delivered pursuant to such requisition as aforesaid.

See 8 & 9 Vict. c. 120., post, p. 362.

Copies of the depositions may be given in evidence.

2. Provided always, that in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person apprehended.

Offenders to be delivered up.

3. It shall be lawful for one of Her Majesty's Principal Secretaries of State by warrant under his hand and seal to order the person so committed to be delivered up to such person or persons as shall be duly authorized, in the name of the King of the French, to receive the person so committed, and convey such person to the dominions of the King of the French, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid to receive the person so charged with crime and committed as aforesaid to hold such person in custody, and take him or her to the dominions of the King of the French, pursuant to the said convention; and if the person so accused escape out of any custody to which he or she is committed, or to which he or she is delivered as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he or she so escapes may be retaken upon an escape: Provided always, that no justice or other person shall issue his warrant for the apprehension of any such supposed offender until it has been proved to him, upon oath or by affidavit, that the party applying for such warrant is the bearer of a warrant of arrest or other equivalent judicial document, issued by a judge or competent magistrate in France, authenticated in such manner as would justify the arrest of the supposed offender in France upon the same charge, or unless it appear to him that the acts charged against the supposed offender are clearly set forth in such warrant of arrest or other equivalent judicial document.

After two months the persons apprehended may be

4. Where any person who has been committed under this act to remain until delivered up pursuant to requisition as aforesaid, shall not be delivered up pursuant thereto, and

conveyed out of Her Majesty's dominions within two calendar months after such committal, over and above the time actually required for conveying the prisoner from the gaol to which he or she was committed by the readiest way out of Her Majesty's dominions, it shall in every such case be lawful for any of Her Majesty's Judges in that part of Her Majesty's dominions in which such supposed offender is in custody, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to some or one of Her Majesty's Principal Secretaries of State in Great Britain to order the person so committed to be discharged out of custody, unless sufficient cause be shown to such Judge or Judges why such discharge ought not to be ordered.

discharged, if not conveyed out of Her Majesty's dominions.

6. This act shall continue in force during the continuance of the said convention.

Continuance of act.

APPREHENSION OF CERTAIN OFFENDERS UNDER TREATY WITH THE UNITED STATES.

6 & 7 Vict. c. 76.

Whereas by the 10th article of a treaty between Her Majesty and the United States of America, signed at Washington on the 9th day of August 1842, the ratifications whereof were exchanged at London on 13th day of October in the same year, it was agreed that Her Majesty and the said United States should, upon mutual requisitions by them or their ministers, officers, or authorities respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either of the High Contracting Parties, should seek an asylum or should be found within the territories of the other; provided that this should only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found would justify his apprehension and commitment for trial if the crime or offence had been there committed, and that the respective judges and other magistrates of the two Governments should have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the appre-

hension of the fugitive or person so charged, so that he might be brought before such judges or other magistrates respectively, to the end that the evidence of criminality might be heard and considered ; and if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant might issue for the surrender of such fugitive, and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive ; and it is by the 11th article of the said treaty further agreed, that the 10th article hereinbefore recited should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer :

Certain offenders to be apprehended on requisition of the United States.

1. In case requisition shall at any time be made by the authority of the said United States, in pursuance of and according to the said treaty, for the delivery of any person charged with the crime of murder, or assault with intent to commit murder, or with the crime of piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of the United States of America, who is found within the territories of Her Majesty, it shall be lawful for one of Her Majesty's Principal Secretaries of State,..... by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices and other magistrates and officers of justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol, for the purpose of being delivered up to justice, according to the provisions of the said treaty ; and thereupon it shall be lawful for any justice, or other person having power to commit for trial persons accused of crimes against the laws of that part of Her Majesty's dominions in which such supposed offender is found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as according to the laws of that part of Her Majesty's dominions would justify the apprehension and committal for trial of the person so accused if the crime of which he or she is so accused had been there committed, it shall be lawful for such justice, or other person having power to commit as aforesaid, to issue his warrant for the apprehension of such person, and also to commit the person so accused to gaol, there to remain until delivered pursuant to such requisition as aforesaid.

2. Provided always, that in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Copies of the depositions may be given in evidence.

See 8 & 9 Vict. c. 120., post, p. 362.

3. Upon the certificate of such justice, or other person having power to commit as aforesaid, that such supposed offender has been so committed to gaol, it shall be lawful for one of Her Majesty's Principal Secretaries of State,by warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized in the name of the said United States to receive the person so committed, and to convey such person to the territories of the said United States, to be tried for the crime of which such person is so accused, and such person shall be delivered up accordingly, and it shall be lawful for the person or persons authorized as aforesaid to hold such person in custody, and take him or her to the territories of the said United States, pursuant to the said treaty; and if the person so accused escape out of any custody to which he or she is committed, or to which he or she is delivered as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he or she so escapes may be retaken upon an escape.

Offenders to be delivered up.

4. Where any person who has been committed under this act, to remain until delivered up pursuant to requisition as aforesaid, shall not be delivered up pursuant thereto, and conveyed out of Her Majesty's dominions within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he or she was committed by the readiest way out of Her Majesty's dominions, it shall in every such case be lawful for any of Her Majesty's Judges in that part of Her Majesty's dominions in which such supposed offender is in custody, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to some or one of Her Majesty's Principal Secretaries of State, to order the person so committed to be discharged out of custody, unless sufficient cause be shown to such Judge or Judges why such discharge ought not to be ordered.

After two months the persons apprehended may be discharged, if not conveyed out of Her Majesty's dominions.

Continuance
of act.

6. This act shall continue in force during the continuance of the 10th article of the said treaty.

APPREHENSION OF CERTAIN OFFENDERS UNDER THE
TREATIES WITH FRANCE AND THE UNITED STATES.

8 & 9 VICT. c. 120.

6 & 7 Vict.
c. 75.

6 & 7 Vict.
c. 76.

Any metropo-
litan police
magistrate to
whom it shall
have been
signified that
a requisition
has been made
to deliver up
any person
pursuant to the
said conven-
tion or treaty,
may issue his
warrant for the
apprehension
of such person
in any part of
England.

Whereas two acts were passed in the seventh year of Her Majesty, severally intituled "An act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders," and "An act for giving effect to a treaty between Her Majesty and the United States of America, for the apprehension of certain offenders:"

1. Any police magistrate of the metropolis to whom any one of Her Majesty's Principal Secretaries of State shall have signified, by warrant under his hand and seal, that requisition has been made, pursuant to the said convention or treaty, to deliver up to justice, in terms of the said convention or treaty, any person accused of any crime rendering him liable to be so delivered up under either of the recited acts, shall, upon such evidence as according to the laws of England would justify the apprehension of the person so accused if the crime of which he is accused had been committed in England within the jurisdiction of such magistrate, issue his warrant for the apprehension of such person, in the form annexed to this act, or to the like effect; and such warrant may be executed in any part of England, and shall have the same force and effect throughout England as if the same had been originally issued or subsequently endorsed by a justice or magistrate having jurisdiction in the place where the same shall be executed, and may be lawfully executed anywhere within England by the constable or constables to whom the same shall be directed, or who shall be appointed to execute the same, who shall severally have all the powers and privileges for the execution of such warrant as any constable duly appointed hath or may have within his constablewick.

Such person
when appre-
hended to be
brought before
a police magis-
trate, who may
order his
committal.

2. Every person apprehended under any such warrant shall be brought with all convenient speed before the magistrate by whom such warrant was issued, or some other magistrate of the same police court, and such magistrate may cause the warrant of committal of such person to be drawn up according to the form in the schedule to this

act, or to the like effect, which shall be good and sufficient in law to warrant the persons to whom the same shall be directed to detain such person in custody, as directed in the said warrant, until delivered pursuant to the act under which he has been apprehended.

3. This act shall be construed with each of the said acts separately, and as if this act had been enacted in each of the said acts.

Act to be construed with recited acts.

SCHEDULE

[Forms of warrant of apprehension and warrant of committal.]

APPREHENSION OF SEAMEN DESERTING FROM FOREIGN SHIPS.

15 & 16 VICT. c. 26.

1. Whenever it is made to appear to Her Majesty that due facilities are or will be given for recovering and apprehending seamen who desert from British merchant ships in the territories of any foreign power, Her Majesty may, by Order in Council stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant ships belonging to a subject of such power, when within Her Majesty's dominions or the territories of the East India Company, shall be liable to be apprehended and carried on board their respective ships, and may limit the operation of such Order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient.

Her Majesty may by Order in Council declare that deserters from merchant ships of foreign powers may be apprehended and given up.

2. Upon such publication as herein-after mentioned of any such Order in Council, then, during such time as the same remains in force, and subject to such limitations and qualifications, if any, as may be therein contained, every justice or other officer having jurisdiction in the case of seamen who desert from British merchant ships in Her Majesty's dominions shall, on application being made by a consul of the foreign power to which such Order in Council relates, or his deputy or representative, aid in apprehending any seaman or apprentice who deserts from any merchant ship belonging to a subject of such power, and may for that purpose, upon complaint on oath duly made, issue his warrant for the apprehension of any such

Upon publication of Order in Council, justices shall aid in recovering deserters from such ships.

deserter, and, upon due proof of the desertion, order him to be conveyed on board the vessel to which he belongs, or to be delivered to the master or mate of such vessel, or to the owner of such vessel or his agent, to be so conveyed; and thereupon it shall be lawful for the person ordered to convey such deserter, or for the master or mate of such vessel, or the owner or his agent, (as the case may require,) to convey him on board accordingly.

Penalty on persons harbouring such deserters.

3. If any person protects or harbours any deserter who is liable to be apprehended under this act, knowing or having reason to believe that he has deserted, such person shall for every offence be liable to a penalty not exceeding £10; and every such penalty shall be recovered, paid, and applied in the same manner as penalties for harbouring or protecting deserters from British merchant ships.

4. [Orders in Council to be published in the London Gazette.]

5. [And may be revoked or altered.]

Short title.

6. This act may be cited as the "Foreign Deserters Act, 1852."

JUVENILE OFFENDERS.

Summary Jurisdiction in Cases of Larceny.

10 & 11 VICT. c. 82.*

Persons not exceeding 14 years of age committing certain offences may be summarily convicted by two justices.

1. Every person charged with having committed or attempted to commit, or with having been an aider, abettor, counsellor, or procurer in the commission of any offence now or hereafter by law deemed or declared to be simple larceny, or punishable as simple larceny, and whose age at the period of the commission or attempted commission of such offence does not, in the opinion of the justices before whom he or she is brought or appears as herein-after mentioned, exceed the age of 14 years, shall, upon conviction thereof, upon his own confession or upon proof, before any two or more justices for any county, riding, division, borough, liberty, or place in petty sessions assembled, at the usual place, and in open court, be committed to the common gaol or house of correction within the jurisdiction of such justices, there to be imprisoned, with or without hard labour, for any term not exceeding three calendar months, or, in the discretion of such justices, shall pay

* See 13 & 14 Vict. c. 37., *post*, p. 366.

such sum, not exceeding £3, as the said justices shall adjudge, or, if a male, shall be once privately whipped, either instead of or in addition to such imprisonment, or imprisonment with hard labour; and the said justices shall from time to time appoint some fit and proper person, being a constable, to inflict the said punishment of whipping when so ordered to be inflicted out of prison:

[Justices may dismiss the accused if they deem it expedient not to inflict any punishment: If before hearing the defence justices think the charge a fit subject for indictment, or if defendant object to summary adjudication, case to be dealt with as if act not passed.]

2. [Power to justices to hear and determine: one metropolitan police magistrate may act as fully as two justices.]

3. [Proceedings under this act a bar to further proceedings.]

4. Where any person whose age is alleged not to exceed 14 years is charged with any such offence on oath before any justice, such justice may issue his summons or warrant to summon or to apprehend the person so charged to appear before two justices in petty sessions assembled as aforesaid at a time and place to be named in such summons or warrant.

Mode of
compelling
the appearance
of persons
punishable on
summary
conviction.

See 2 & 3 Vict. c. 71. ss. 19, 21., ante, pp. 44, 45.

5. [Power to one or more justice or justices to remand and take bail.]

See 2 & 3 Vict. c. 71. s. 36., ante, p. 50.

6. [Fines imposed by justices under this act to be paid to the use of the county rate.]

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

7. [As to the summoning and attendance of witnesses.]

See 2 & 3 Vict. c. 71. s. 22., ante, p. 45.

8. Every summons under this act may be served by delivering a copy to the party, or by delivering a copy to some inmate at such party's usual place of abode.....

See 2 & 3 Vict. c. 71. s. 20., ante, p. 45.

9. [Form of conviction.]

See 2 & 3 Vict. c. 71. s. 48., ante, p. 56.

10. [No certiorari, &c.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

11. [Convictions to be returned to the quarter sessions.]

12. [No forfeiture upon convictions under act, but presiding justices may order restitution of property.]

See 2 & 3 Vict. c. 71. s. 29., ante, p. 48.

13. [Recovery of penalties.]

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

Expenses of
prosecutions
how to be
paid.

14. [Justices before whom any person is prosecuted or tried for any offence under this act empowered to order payment to prosecutor and his witnesses of expenses and compensation for trouble and loss of time, and to order payment to constables for the apprehension and detention of any person charged, although no conviction actually takes place: Such expenses not in any one case to exceed 40s., and not to exceed the sums allowed, according to a scale settled by quarter sessions with respect to preliminary inquiries before justices in cases of felony.]

But see as to this scale 14 & 15 Vict. c. 55. ss. 4, 5., ante, p. 342.

15. [Orders for payment how to be made.]

16. [Payment of costs and expenses with respect to boroughs, &c.]

Actions, &c.

17. [Venue in actions, &c. against persons for anything under this act; actions, &c. to be brought within three months; one month's notice of action to be given; general issue may be pleaded; amends, payment into court; if a verdict pass for defendant, &c. defendant to have full costs; plaintiff to have no costs unless judge certifies.]

See as to payment into court 15 & 16 Vict. c. 76. (Common Law Procedure.) s. 70.

13 & 14 VICT. c. 37.

[10 & 11 Vict. c. 82. (England) and 11 & 12 Vict. c. 59. (Ireland) recited.]

Recited acts
extended to
persons not
above 16 years
old.

1. [Recited acts extended to all cases in which the age of the person charged does not appear to exceed 16 years. Offenders above 14 years of age not to be liable to punishment of whipping.]

Justice to ask
whether
accused wishes
the charge to

2. One of the justices before whom any person is charged and proceeded against under this act or the herein-before mentioned acts, before such person shall be asked whether

he or she has any cause to show why he or she should not be convicted, shall say to the person so charged these words, ^{be tried by a jury.} or words to the like effect: "We shall have to hear what you wish to say in answer to the charge against you; but if you wish the charge to be tried by a jury, you must object now to our deciding upon it at once;" and if such person, or a parent of such person, then object, the justices shall proceed with the charge as if the said acts had not been passed.

Care and Reformation of Youthful Offenders.

17 & 18 Vict. c. 86.

Whereas reformatory schools for the better training of juvenile offenders have been and may be established by voluntary contributions in various parts of Great Britain, and it is expedient that more extensive use should be made of such institutions:

1. [Secretary of State, upon application by the directors or managers of any such institution, may direct one of the inspectors of prisons to examine and report upon it, and any such institution appearing to the Secretary of State, and certified under his hand and seal, to be useful and efficient, shall be held to be a reformatory school under this act: power to inspectors of prisons to visit same; and if upon report of inspector Secretary of State think proper to withdraw certificate, and notify such withdrawal under his hand to directors or managers, same shall forthwith cease to be a reformatory school within this act.]

On application from voluntary institution to Secretary of State, same may become a reformatory school.

2. Whenever any person under the age of 16 years is convicted of any offence punishable either upon an indictment or on summary conviction before a police-magistrate of the metropolis or other stipendiary magistrate, or before two or more justices . . . it shall be lawful for any court, judge, police magistrate of the metropolis, stipendiary magistrate, or any two or more justices . . . before or by whom such offender is so convicted, in addition to the sentence then and there passed as a punishment for his offence, to direct such offender to be sent, at the expiration of his sentence, to some one of the aforesaid reformatory schools to be named in such direction, the directors or managers of which are willing to receive him, and to be there detained for not less than two years and not exceeding five years, and such offender shall be liable to be detained pursuant to such

Juvenile offenders under 16 may in addition to punishment be sent to reformatory school.

direction : Provided always, that no offender shall be directed to be so sent and detained as aforesaid unless the sentence passed as a punishment for his offence, at the expiration of which he is directed to be so sent and detained, be one of imprisonment for 14 days at the least ; provided also, that the Secretary of State for the home department may at any time order any such offender to be discharged from any such school.

3. [Power to Treasury to defray cost of maintenance at reformatory school, or portion thereof not recovered from parents or others.]

4. [Absconding or refractory conduct at reformatory school may be punished by imprisonment, with or without hard labour, for not exceeding three months.]

5, 6. [Cost of maintenance to be partly recovered from parents, &c.]

Repealed by 18 & 19 Vict. c. 87. s. 1., infra.

7. [Juvenile offenders may be removed by Secretary of State from one reformatory school to another.]

18 & 19 VICT. c. 87.

1. [Sects. 5. and 6. of 17 & 18 Vict. c. 86. repealed.]

Provision for enforcing contribution by parents to the maintenance of juvenile offenders in reformatory schools.

2. In every case in which any juvenile offender shall be detained in a reformatory school under 17 & 18 Vict. c. 86. the parent or step-parent, if of sufficient ability, shall be liable to contribute to his support and maintenance a sum not exceeding 5s. a week ; and it shall be lawful in England and Wales for any two justices, upon the complaint of any person authorized by one of Her Majesty's Principal Secretaries of State to take proceedings in that behalf, to summon the parent or step-parent, as the case may be, and examine into his or her ability, and (if on consideration of all the circumstances of the case they think fit) to make an order upon him or her for such weekly payment, not exceeding 5s. per week, as they shall think reasonable, during the whole or any part of the detention of such juvenile offender in such reformatory school, such payment to be made at such times as by such order may be directed to the person so authorized to take proceedings as aforesaid, or to such person as the Secretary of State may from time to time appoint to receive the same, and

by him to be accounted for and paid as the Commissioners of Her Majesty Treasury may direct.

See 20 & 21 Vict. c. 55. ss. 8, 9, 12., post, pp. 370, 371.

3. [Recovery of sums ordered to be paid by distress and imprisonment.]

5. [Payments may be remitted by Secretary of State.]

19 & 20 VICT. c. 109.

1. [School to which youthful offenders committed need not be named in the sentence.]

2. [Supplemental orders may be made at any time before expiration of term of imprisonment.]

3. [Young persons not to be sent to schools to which parents, &c. object.]

5. [Nothing to diminish power of Secretary of State to order removals, &c.]

6. [Expenses of conveyance, how to be met.]

7. [Governor of prison to send duplicate of warrant of commitment, if it exists, with child, to reformatory; if not, then a copy of warrant.]

8. [What is sufficient evidence as to certificate of school and identity of child.]

9. [Penalty on persons wilfully inducing young persons to abscond from reformatory, not exceeding £5, recoverable summarily, at instance of officers of school, and to be paid to the treasurer of the institution.]

But see 2 & 3 Vict. c. 71. s. 47., ante, p. 56.

10. [Secretary of State to publish list of all reformatory or industrial schools in London and Edinburgh Gazettes, and publication sufficient to justify committal thereto.]

12. [17 & 18 Vict. c. 86. and 18 & 19 Vict. c. 87. to be read as part of this act.]

[Schedule.]

20 & 21 VICT. c. 55.

Contribution by parents to the maintenance of offenders in a reformatory school how to be enforced.

8. In every case in which any juvenile offender shall be sentenced to be detained in a reformatory sechool under 17 & 18 Vict. c. 86., or any of the acts amending the same, by any justices in petty sessions or by any stipendiary or police magistrate in England and Wales, such justices or magistrate, at the time of passing such sentence, or within 14 days thereof, may issue a summons calling upon the parent or step-parent of such offender to appear before them or him, and on the hearing of such summons, whether the party summoned shall appear or not, may examine into the ability of such parent or step-parent to contribute to such offender's support and maintenance, and may make an order upon him or her for the payment of such weekly sum (not exceeding 5s.) as shall seem reasonable during the whole or any part of the detention of such offender in such reformatory school; and in every case in which such sentence of detention shall be passed by any court of assize or quarter sessions in England and Wales, such court shall direct any officer of the same to certify the said sentence to the next meeting of justices in petty sessions for the district or town from which such offender shall have been committed (or to any police or stipendiary magistrate of the said district, as the case may be), and such justices or magistrate may proceed to summon the parent or step-parent of such offender, and to make an order upon him or her in manner herein-before provided, as if the sentence had been passed by themselves or himself in due course of law.

Proceedings for enforcing contribution may be taken at any time during the detention of the offender.

9. In any case wherein no such order shall have been made as herein-before described, it shall be lawful, at any time during the detention of such juvenile offender, for any two justices or any police or stipendiary magistrate in England or Wales acting for the county or borough, or other jurisdiction within which the parent or step-parent of such offender shall be residing, on the complaint of any person authorized by one of Her Majesty's Principal Secretaries of State to take proceedings under the said acts or any of them, to summon such parent or step-parent before them, and to examine into his or her ability, and to make such order for a sum not exceeding 5s. per week to be paid by him or her as aforesaid.

Power to remit, reduce, or increase the weekly payments, but not

10. Provided also, that it shall be lawful for any two justices or for any police or stipendiary magistrate in England or Wales from time to time, on the representation of such parent or step-parent, or any person authorized by

the Secretary of State to take proceedings as aforesaid, at any time while the first order continues in force, to make further inquiry into the parent's or step-parent's ability, and to remit or lessen the amount of the weekly payment that shall have been previously assessed upon him or her, or to increase the same, if they* see cause so to do, so that the amount shall not in any case exceed 5s. weekly.

to exceed 5s.
weekly.

* Sic.

11. All such payments shall be directed by the order to be made to some person to be appointed by one of Her Majesty's Principal Secretaries of State to receive such payments within the jurisdiction of the court or justices or police or stipendiary magistrate making the order, or to his agent duly authorized in that behalf, by him to be accounted for and paid over as the Commissioners of Her Majesty's Treasury may direct.

Payments how
to be made.

12. [Provisions of 18 & 19 Vict. c. 87. in case of default in payment by parents to be applicable to the purposes of this act, and so much of s. 2. of said act as is inconsistent with this act repealed.]

18 & 19 Vict.
c. 87. applied.

13. It shall be lawful for the managers of any reformatory school, previous to making application for the discharge of any juvenile offender committed to such school, to place such offender on trial with some person, to be named in the licence herein-after,* most willing to receive and take charge of him, and to grant to such offender a licence under their hands or the hand of any one of them to reside with such person for any term not exceeding 30 days, unless sooner called upon by the said managers to return to the said school, and to require such offender to return to the said school at any time during the same; and such managers shall bring back such offender to the said school at the expiration of the said term, provided that such offender shall not have been previously discharged from the school by order of the Secretary of State; and any offender who shall abscond from such person during such term, or shall refuse to return to the reformatory school at the end of such term, or before the end of the time, when so required, shall be held to have absconded from the school, and shall be liable to the penalties in that case made and provided: Provided always, that no such offender shall be so placed out before the expiration of one half of the term of detention to which he was originally sentenced.

Provision for
care of juvenile offenders
when discharged from
reformatory schools.

* Sic.

14. [The like penalty for harbouring any young person absconding from a reformatory as under 19 & 20 Vict. c. 109. for inducing a young person to abscond.]

INDUSTRIAL SCHOOLS (AND CARE OF DESTITUTE CHILDREN.)

24 & 25 Vict. c. 113.

1. [Short title.]

2. [Act not to extend to Scotland or Ireland.]

Interpretation
of terms.

3. [Interpretation of terms.

"Justices" to mean any two or more justices acting together in petty sessions, also lord mayor or any alderman of London, or any other magistrate authorized to do alone whatsoever is authorized by 11 & 12 Vict. c. 43. to be done by two or more justices :

"Managers" to include the directors, managers, or other persons who have the management or control of any such industrial school as herein-after mentioned :

"Parent" to include any person legally liable to maintain a child, except the putative father of a bastard child on whom an order of affiliation has been made :

"County" to include any city, borough, riding, division of a county, or other place having a separate commission of the peace :

"Parish" to include any place maintaining its own poor.]

Mode of certi-
fying industrial
school.

4. [Secretary of State for home department may, upon application of managers of any school in which industrial training is provided, and in which children are clothed, lodged, and fed, as well as taught, appoint a person to examine into condition of school, and report to him thereon, and if satisfied with report, he may certify that such school is fitted for the reception of such children as may be sent there in pursuance of this act, and shall cause a copy of certificate to be sent to clerk of the peace of the county in which the school is situate, and to the town clerk of every borough within such county ; but no school shall be certified under this act and also under 17 & 18 Vict. c. 86.]

Withdrawal of
certificate by
Secretary of
State.

5. [Every industrial school certified under this act, herein-after referred to as "a certified industrial school," shall at least once in each year be inspected by a person appointed by Secretary of State ; and Secretary of State, if dissatisfied with condition of school as reported to him, may by notice under his hand, addressed to the managers, declare that the certificate is withdrawn, from a day specified in such notice, not less than two months after date.]

6. [Such notice may be served on managers by delivering same personally to any one of them, or by sending it, by post, or otherwise, in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any manager, or of the secretary, and copy of notice to be sent to the clerk of the peace of the county, and to town clerks of boroughs; and any school on the managers of which such notice has been served shall from the day therein specified cease to be a certified industrial school within the meaning of this act.] Notice of withdrawal.

7. [Managers of certified industrial school may, upon giving six months previous notice of intention so to do, in writing under the hand of one or more of them, or of the secretary, require Secretary of State to withdraw certificate; and accordingly, at expiration of six months, certificate shall be deemed to be withdrawn, and thenceforth it shall not be lawful to send or receive there any more children under this act; but managers of school shall not, except in manner provided by this section, have power, without consent of Secretary of State in writing, to withdraw from obligation of educating, clothing, lodging, and feeding any children that at the time of the giving such notice may be in the school, in pursuance of this act, until the certificate be withdrawn, or children be removed to some other industrial school by order of Secretary of State; and if managers make default in so doing, they shall incur a penalty not exceeding £5 for each default.] Resignation of certificate.
by managers.

8. [Guardians of any union or parish may, with consent of poor law board, contract with managers of any certified industrial school for maintenance and education of any pauper child.] Guardians may contract with managers.

9. Children of the descriptions herein-after mentioned may be sent to certified industrial schools in pursuance of this act; that is to say, Description of children liable to be sent to school.

1. Any child apparently under the age of 14 years found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms:
2. Any child apparently under the age of 14 years that is found wandering, and not having any home or settled place of abode, or any visible means of subsistence, or frequents the company of reputed thieves:
3. Any child apparently under the age of 12 years who, having committed an offence punishable by imprison-

ment or some less punishment, ought nevertheless, in the opinion of the justices, regard being had to his age and to the circumstances of the case, to be sent to an industrial school :

4. Any child under the age of 14 years whose parent represents that he is unable to control him, and that he desires such child to be sent to an industrial school, in pursuance of this act, and who at the same time gives such undertaking or other security as may be approved by the justices before whom he is brought, in pursuance of this act, to pay all expenses incurred for the maintenance of such child at school :

Provided that no child who, on being brought before the justices, is proved to have been previously convicted of felony, shall be deemed to be within the provisions of this act.

Justices may
send child to
school.

10. Any person may bring before justices any child herein-before declared to be liable to be sent to an industrial school ; and the justices shall make full inquiry into all the facts of the case, and if satisfied, on the result of such inquiry, that this act applies to such child, and that it is expedient to deal with him under its provisions, may, by writing under their hands and seals, order the child to be sent, for such period as they may think necessary for his education and training, to any certified industrial school, whether situate within their jurisdiction or not, the managers of which are willing to receive such child ; subject to this qualification, that it shall be the duty of the justices to select, if possible, an industrial school conducted in accordance with the religious persuasion to which the parent of the child appears to them to belong :

Provided also, that the justices shall have power, while inquiry is being made respecting such child, or respecting a school to which he may be sent, to order him to be taken to the workhouse belonging to the parish in which such child has been found, and to be detained therein, at the cost of the union to which the parish belongs, for any time not exceeding seven days, or until an order be made, previous to the expiration thereof, for the discharge of such child, or for his being sent to an industrial school, as herein-before provided, and such child shall be so detained accordingly :

Provided that the order of the justices sending the child to school shall specify the religious persuasion to which the child appears to the justices to belong, and it shall be lawful

for a minister of that religious persuasion to visit the child at the school on such days and at such times of the day as may from time to time be fixed by regulations to be made by the Secretary of State, for the purpose of instructing him in religion.

11. The managers of any certified industrial school may, at their discretion, permit any child sent there in pursuance of this act to sleep or lodge at the dwelling of his parent, or of any trustworthy and respectable person, so that they educate, feed, and clothe the child in all respects as if he were lodging in the school itself, and that they report to the Secretary of State, in such manner as he may require, every instance in which they exercise a discretion under this section.

Lodging child out of school.

12. The time during which any child is lodged in any certified industrial school under this act shall, for all the purposes of 9 & 10 Vict. c. 66., and of every act incorporated therewith, be excluded in the computation of the time therein mentioned.

Settlement not acquired by stay at school.

13. [Power to managers to make rules for school, subject to approval of Secretary of State.]

14. [No child to be detained against his consent in certified school after the age of 15 years.]

Limitation of stay at school.

15. [Secretary of State may remove any child from one certified industrial school to another, so that the period of detention be not increased, and may discharge any child either absolutely or upon condition of parent or any near relation undertaking to educate, clothe, and feed him, or entering into such other undertaking as Secretary of State may require.]

Discharge of child from school, &c.

16. [On application of parent, or the managers, or of guardians, any justices of the county, if satisfied that a suitable employment has been provided for the child, or that there is otherwise sufficient cause, may discharge child from school before expiration of period.]

Power in certain cases to discharge child from school before expiration of period.

17. [Power to Treasury, on recommendation of Secretary of State, to contribute towards maintenance of children sent to school in pursuance of this act, except children sent at desire of parents, and on representation that they are unable to control them, or portion of cost not recovered from parent, or such other portion as Secretary of State may recommend.]

Contribution by Treasury.

Order for payment of maintenance.

18. The justices by whom any child is sent to school in pursuance of this act, or justices having jurisdiction within the district where the school is situate to which any child is sent in pursuance of this act, or in which the parent of such child shall reside, upon an application made by any person appointed by the Secretary of State for that purpose, or by any agent of such person, shall have authority to make an order on the parent of such child for the payment, either at the time of the child being first sent to school, or at any time during his continuance at school, of the expenses of his maintenance at school to an amount not exceeding 5s. for every week during which the child remains at such school.

Variation of order.

19. The order made by the justices may specify the time during which the parent is to pay the sums thereby directed to be paid, or it may be indefinite, and until further order; and any justices having jurisdiction to make such order may from time to time vary the same whenever circumstances require it, on the application either of the parent or of any person appointed by the Secretary of State to receive the money, or by the agent of such person, on 14 days notice being first given of such application to such person or his agent, or to such parent, respectively.

Penalty on child absconding.

20. If any child, whether lodging in the school or elsewhere, before attaining the age of 15 years, or before being duly discharged, wilfully absconds from the school to which he is sent in pursuance of this act, or neglects to attend thereat, or wilfully refuses to conform to the regulations thereof, any justices having jurisdiction in the place in which the school is situate or in which the child is retaken may, by writing under their hands and seals, order him to be sent back to the school, and to be detained there until he attains the age of 15 years, or for such shorter period as the justices think fit, or, instead of sending him back to such last-mentioned school, the justices may commit him, under the provisions of 17 & 18 Vict. c. 86., to any reformatory school certified under the said act.

Penalty for inducing a child to abscond or harbouring absconding child.

21. Any person who directly or indirectly withdraws a child from the certified industrial school to which he has been sent, previously to his attaining the age of 15 years, or to being duly discharged, or who induces or aids him to abscond, or who knowingly conceals or harbours him, or in any way prevents his return, shall for every such offence incur a penalty not exceeding £5, or shall be liable, at the

discretion of the justices, to be imprisoned for any period not exceeding 20 days.

22. Penalties may be recovered and payments may be enforced under this act in manner provided by 11 & 12 Vict. c. 43., and any act amending the same.

Mode of recovering penalties.

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

23. [Notice of grant or withdrawal of certificate by Secretary of State to be published in London Gazette within one month, and such publication to be sufficient evidence of the fact.]

24. The order made by the justices sending any child to a certified industrial school shall be forwarded to the managers thereof, and shall be a sufficient warrant for the detention of the child.

Evidence of order of justices.

25. Whenever it is necessary to prove that any industrial school is duly certified under this act, the production of an attested copy of the certificate or of the notice published in the London Gazette shall be sufficient evidence thereof;

Evidence of certificate of school,

and the production of the order under which any child has been sent to or is detained in any certified industrial school under this act, or a copy of such order, with a memorandum signed by one of the managers or their authorized secretary, or by the superintendent or master or matron of any such school, that the child named in such order was duly received into and is at the signing thereof detained in such school, or has been otherwise disposed of according to law, and the production of any order made under this act, or a copy thereof, certified by the clerk to the justices making the same to be a correct copy, shall in all proceedings whatsoever be sufficient evidence of the due making and signing of all or any of such orders, memorandum, and certificate respectively, and of the sending, detention, and identity of the child or parent named in such orders respectively, without proof of the signatures of the justices or other persons appearing to have signed the same respectively.

identity of child, and making of orders.

26. [No order, &c. invalid for want of form; forms in schedule may be used.]

27. [Repeal of 20 & 21 Vict. c. 48. and 23 & 24 Vict. c. 108., with saving for existing certificates and orders, and for penalties incurred.]

28. [Act to apply to schools certified under repealed acts.]

29. [Duration of act, viz., until 1st January 1864.]

SCHEDULE.

Form.

[Order sending child to industrial school.]

ADMINISTRATION OF CRIMINAL JUSTICE, DIMINISHING EXPENSE AND DELAY IN CERTAIN CASES.

16 & 17 Vict. c. 30.

1. [Aggravated assaults on women and children.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414. For substituted provision see 24 & 25 Vict. c. 100. s. 43., post, p. 522.

2. [Court of general or quarter sessions may, upon proof of conviction and notice to parties, declare a recognizance to keep the peace or to be of good behaviour to be forfeited.]

3. [Detention of persons committed to prison for not entering into recognizance limited not to be for more than a twelvemonth.]

4. [Indictments, except in certain cases, not to be removed by certiorari, unless it appear that a fair trial cannot be had.]

5. [No certiorari to issue to remove indictment, unless recognizance given for payment of costs.]

6. [How costs to be taxed and recovered.]

7. [If no recognizance given, court to try as if no certiorari awarded.]

8. [Act not to extend to writ of certiorari awarded at instance of Attorney General.]

9. [Secretary of State may issue his warrant for bringing up a prisoner (not in custody under civil process) to give evidence.]

18 & 19 VICT. c. 126.*

1. Where any person is charged before any justices assembled at such petty sessions as herein-after provided with having committed simple larceny, and the value of the whole of the property alleged to have been stolen does not, in the judgment of such justices, exceed 5s., or with having attempted to commit larceny from the person, or simple larceny, it shall be lawful for such justices to hear and determine the charge in a summary way, and if the person charged confess the same, or if such justices, after hearing the whole case for the prosecution and for the defence, find the charge to be proved, then it shall be lawful for such justices to convict the person charged, and commit him to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for not exceeding three calendar months, and if they find the offence not proved they shall dismiss the charge, and make out and deliver to the person charged a certificate under their hands, stating the fact of such dismissal; and every such conviction and certificate respectively may be in the forms (A.) and (B.) in the schedule to this act, or to the like effect: Provided always, that if the person charged do not consent to have the case heard and determined by such justices, or if it appear to such justices that the offence is one which, owing to a previous conviction of the person charged, is punishable by law with transportation or penal servitude, or if such justices be of opinion that the charge is, from any other circumstances, fit to be made the subject of prosecution by indictment, rather than to be disposed of summarily, such justices shall, instead of summarily adjudicating thereon, deal with the case in all respects as if this act had not been passed: Provided also, that if upon the hearing of the charge such justices be of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, they shall have power to dismiss the person charged, without proceeding to a conviction.

Power to justices at petty sessions to punish persons charged with larceny, &c. summarily.

If parties accused do not consent, justices to deal with cases as if this act had not passed.

2. Where the justices before whom any person is charged as aforesaid propose to dispose of the case summarily under the foregoing provisions, one of such justices, after the examinations of all the witnesses for the prosecution have been completed, and before calling upon the person charged for any statement which he may wish to make, shall state to such person the substance of the charge against him, and

Justices to ask the accused whether he consents to the charge being summarily determined.

* Amended as to Cinque Ports and counties of Lancaster and Durham by 19 & 20 Vict. c. 118.

shall then say to him these words, or words to the like effect : " Do you consent that the charge against you shall " be tried by us, or do you desire that it shall be sent for " trial by a jury at the sessions or assizes " (as the case may be) ; and if the person charged consent to the charge being summarily tried and determined as aforesaid, then the justices shall reduce the charge into writing, and read the same to such person, and shall then ask him whether he is guilty or not of such charge ; and if such person say that he is guilty, the justices shall then proceed to pass such sentence upon him as may by law be passed, subject to the provisions of this act in respect to such offence ; but if the person charged say that he is not guilty, the justices shall then inquire of such person whether he has any defence to make to such charge, and if he state that he has a defence the justices shall hear such defence, and then proceed to dispose of the case summarily.

Persons charged with larceny, &c. may plead guilty before justices in petty sessions, and be sentenced forthwith.

3. Where any person is charged before any justices at such petty sessions as aforesaid with simple larceny (the property alleged to have been stolen exceeding in value 5s.), or stealing from the person, or larceny as a clerk or servant, and the evidence, when the case on the part of the prosecution has been completed, is in the opinion of such justices sufficient to put the person charged on his trial for the offence with which he is charged, such justices, if the case appear to them to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers of this act, shall reduce the charge into writing, and shall read it to the said person, and shall then ask him whether he is guilty or not of the charge ; and if such person say that he is guilty such justices shall thereupon cause a plea of guilty to be entered upon the proceedings, and shall convict him of such offence, and commit him to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for any term not exceeding six calendar months ; and every such conviction may be in the form (C.) in the schedule to this act, or to the like effect : Provided always, that the said justices, before they ask such person whether he is guilty or not, shall explain to him that he is not obliged to plead or answer before them at all, and that if he do not plead or answer before them he will be committed for trial in the usual course.

Justices to warn the accused that he is not obliged to plead.

Persons accused may have assistance of counsel, &c.

4. In every case of summary proceeding under this act the person accused shall be allowed to make his full answer

and defence, and to have all witnesses examined and cross-examined by counsel or attorney.

5. Where any person is charged before any justice or justices with any offence mentioned in this act, and in the opinion of such justice or justices the case may be proper to be disposed of by justices in petty sessions under this act, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for further examination to the next petty sessions, in like manner in all respects as a justice or justices are authorized to remand a party accused under the act passed in the session holden in the 11th and 12th years of Her Majesty, c. 42. s. 21, or under the Petty Sessions Act (Ireland), 1851, s. 14.

Power to remand persons charged to next petty sessions.

6. [Forfeited recognizances taken under 11 & 12 Vict. c. 42. to be transmitted to the clerk of the peace.]

7. [On adjudication under this act convictions and other proceedings to be returned to the quarter sessions,] and a copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein in any legal proceeding whatever.

Certified copy of conviction or dismissal to be evidence.

8. [Justices, in cases of conviction, may order restitution of property stolen, taken, or obtained by false pretences in cases in which the court before whom the person convicted would have been tried but for this act may be by law authorized to order restitution.]

Restitution of property on conviction.

See 24 & 25 Vict. c. 96., s. 100., post, p. 449; see also 2 & 3 Vict. c. 71. s. 29., ante, p. 48.

9. [Petty sessions to be an open court, and held for petty sessional division, and notice thereof to be given.]

10. [11 & 12 Vict. c. 43. not to apply to proceedings under this act.]

11. [Conviction under this act to have the same effect as conviction upon indictment, save as to forfeiture.]

12. [Certificate of dismissal or conviction under this act a bar to other proceedings.]

13. [No conviction, &c. to be quashed for want of form.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

Justices may
order payment
of expenses.

14. Where any charge is summarily adjudicated upon under this act, or an offender is under this act convicted by justices in petty sessions upon a plea of "guilty," it shall be lawful for the justices by whom such charge has been adjudicated upon or offender convicted, upon the request of any person who has preferred the charge or appeared to prosecute or give evidence against the person charged, if such justices think fit so to do, to grant a certificate to such person of the amount of the compensation which such justices may deem reasonable for his expenses, trouble, and loss of time therein, subject nevertheless to the regulations made or to be made as herein-after mentioned; and every such certificate shall, when granted in England, have the effect of an order of court for the payment of the expenses of a prosecution made under 7 Geo. 4 c. 64,* and the acts amending the same,.....and the amount mentioned in such certificate shall be paid in like manner as the money mentioned in such order of court; and all certificates granted under this act shall be subject to the like regulations made or to be made in relation thereto as the certificates mentioned in the said act of the seventh year of King George the Fourth to be granted by examining magistrates are or may be subject to under 14 & 15 Vict. c. 55.: Provided also, that the amount of the fees payable to the clerks of the magistrates in petty sessions, in respect of any proceeding under this act, and of the fees payable to the clerks of the peace for filing the depositions, conviction, or certificate of dismissal aforesaid, and of all such expenses of apprehending the person charged, and detaining him in custody, and of such other expenses as are now by law payable when incurred before a commitment for trial, may be added to the certificate for compensation aforesaid, and paid in the like manner.

* See this act, ante, p. 337.

Any metropo-
litan police
magistrate
or stipendiary
magistrate may
act alone.

16. Any one of the magistrates appointed to act at any of the police courts of the metropolis, and sitting at a police court within the metropolitan police district, may, in the case of persons charged before such magistrate, do alone all acts by this act authorized to be done by justices in petty sessions, and all the provisions of this act referring to justices in petty sessions shall be read and construed as referring also to such magistrate.

17. [Saving for 10 & 11 Vict. c. 82., 13 & 14 Vict. c. 37. & 14 & 15 Vict. c. 92. (Ireland), and this act not to extend to persons punishable under those acts as regards offences punishable thereunder.]

22. In all cases where any justice or justices have or shall hereafter have power to order a sum of money to be forfeited and paid to the party aggrieved, as amends or compensation for any injury to property, real or personal, the right of such party to receive the money so ordered to be paid shall not be affected by such party having been examined as a witness in proof of the offence, any law or statute to the contrary notwithstanding.

In cases of injuries to property, parties aggrieved may receive compensation, though examined as witnesses.

23. In the interpretation of this act "county" shall be construed to include riding, parts, liberty, and division of a county; "borough" to include city, county of a city or town, and town corporate; "property" to include everything included under the words "chattel, money, or valuable security," as used in 7 & 8 Geo. 4 c. 29.; and in the case of any "valuable security" the value of the share, interest, or deposit to which the security may relate, or of the money due thereon or secured thereby, and remaining unsatisfied, or of the goods or other valuable thing mentioned in the warrant or order, shall be deemed to be the value of such security.

Interpretation of terms.

MAKING, KEEPING, AND CARRIAGE OF GUNPOWDER AND COMPOSITIONS OF AN EXPLOSIVE NATURE, AND MANUFACTURE, SALE, AND USE OF FIREWORKS.

23 & 24 VICT. c. 139.

Whereas an act was passed in the session holden in the 9th and 10th years of King William the Third, c. 7, to prevent the throwing or firing of squibs, serpents, and other fireworks; and a like act was passed by the parliament of Ireland in the 5th year of King George the Second, c. 12; and an act was passed in the 12th year of King George the Third, c. 61, to regulate the making, keeping, and carriage of gunpowder; and it is expedient to amend the law concerning the making, keeping, and carriage of gunpowder, and to regulate the making and keeping of other compositions of an explosive nature, and to amend the law concerning the manufacture, sale, and use of fireworks:

9 & 10 W. 3. c. 7.

5 G. 2. c. 12. (I.)

12 G. 3. c. 61.

1. [Except where otherwise expressly provided, act to take effect from 31st August 1861 and from that day 9 & 10 Will. 3. c. 7., 5 Geo. 2. c. 12. (I.), and 12 Geo. 3. c. 61. to be repealed.]

Commencement of act, &c.

2-5. [Regulations concerning manufacturers of gunpowder.]

Regulations
as to the
making of
loaded percus-
sion caps and
the making
and keeping of
ammunition,
&c.

6. The following regulations shall be observed with regard to the manufacture of loaded percussion caps, and the manufacture and keeping of ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature ; (that is to say,)

No such manufacture shall be carried on without such licence for that purpose as herein-after mentioned, or within the respective distances herein-after mentioned, and set opposite to the descriptions of the respective articles ; (that is to say,)

Percussion caps	-	-	50 yards,
Ammunition	-	-	100 yards,
Fireworks	-	-	50 yards,
Fulminating mercury or other preparation or composition of equally explosive power	-	-	100 yards.

from any dwelling house or any building in which persons not connected with the same manufacture are employed :

No such articles as aforesaid, except percussion caps, exceeding the respective quantities herein-after mentioned and set opposite to the descriptions of the respective articles, (that is to say,)

Ammunition containing five pounds of gun-powder,

Fireworks containing ten pounds of explosive compound,

Fulminating mercury or other } 1 oz. dry, or 8 oz.
preparation or composition } mixed with 25 per
of equally explosive power } cent. of water,

shall be kept in any place not licensed for that purpose as herein-after mentioned, and no such articles shall be kept in any place so licensed in excess of the respective quantities specified in the licence in that behalf :

The operation of mixing the composition for percussion caps shall be performed in a building situate at a distance not less than 20 yards from any other workshop, and no greater quantity than five pounds of cap composition shall at any one time be in the building where the operation of mixing is performed :

No fulminating mercury, except that which is being used in the actual preparation of the cap composition shall be kept in any building where the operation of preparing such composition is performed, without being mixed with at least 20 per cent. of water :

The operation of loading percussion caps shall be performed in a building where no other explosive material

than that employed in loading percussion caps is used or kept, and no greater quantity than 24 ounces of cap composition shall at any one time be in the building where the operation of loading is performed :

The operation of filling or charging cartridges shall be performed in a building situate at a distance not less than 20 yards from the other workshops connected with the manufacture ; and no greater quantity than 50 pounds of gunpowder, either loose or made up into cartridges, or what is equivalent, as regards explosive power, to 50 pounds of gunpowder, (if other explosive materials be used,) shall at any one time be in any workshop connected with the manufacture :

The operation of charging or filling fireworks with explosive materials shall be performed in a building situate at a distance not less than 20 yards from the other workshops connected with the manufacture ; and no greater quantity of the ordinary explosive composition used in the manufacture of fireworks than 30 pounds, whether loose or made up, or what is equivalent, as regards explosive power, to 30 pounds of the ordinary gunpowder, shall at any one time be in any building where the operation of filling or charging is performed :

The manufacture of such fireworks as contain detonating composition, or composition which is more easily ignited by percussion or friction than ordinary gunpowder, shall be conducted in a building or buildings situate at a distance not less than 30 yards from the other workshops, and no greater quantity than 10 pounds of such composition shall at any one time be in a building :

Every person keeping or using any factory for the making of ammunition or fireworks shall have, at a distance of not less than 50 yards from any workshop connected with the manufacture, a magazine or magazines, built with brick or stone, for the receiving and safely keeping the gunpowder or other explosive materials used in the manufacture, and the cartridges or fireworks (as the case may be) made at such factory.

7. All loaded percussion caps made, and all ammunition, fireworks, fulminating mercury, or other explosive preparations or compositions made or kept, in any place where under this act it is not lawful to make percussion caps, or to make or (as the case may be) keep ammunition, fireworks, fulminating mercury, or other explosive preparations or

Penalties for making loaded percussion caps or making or keeping ammunition, &c. contrary to this act.

compositions, and any quantity of ammunition, fireworks, fulminating mercury, or other explosive preparation or composition kept in any place where under this act it may be lawful to keep such ammunition, fireworks, fulminating mercury, or other explosive preparation or composition, exceeding the quantity which may be lawfully kept there, shall be forfeited; and every person making or causing to be made percussion caps, or making or keeping or causing to be made or kept ammunition, fireworks, fulminating mercury, or other explosive preparation or composition, contrary to this act, shall for so doing, in addition to such forfeiture as aforesaid, forfeit for every such offence any sum not exceeding £10.

No person to
sell fireworks
without a
licence.

8. It shall not be lawful for any person to sell or offer or expose to sale any firework without such licence for that purpose as herein-after mentioned, and no such firework shall be sold to any person apparently under 16 years of age, and any person offending against this enactment shall for every offence forfeit any sum not exceeding £5.

Penalty for
throwing
fireworks in
thoroughfares.

9. If any person throw, cast, or fire, or aid or assist in throwing, casting, or firing, any squib, serpent, rocket, or other firework in or into any thoroughfare or public place he shall for every such offence forfeit any sum not exceeding £5.

See also 2 & 3 Vict. c. 47. s. 54. par. 15., ante, p. 29.

10. [Justices to license places for making and keeping gunpowder, not being within London or Westminster, or limits after mentioned.]

See 24 & 25 Vict. c. 130. s. 1., post, p. 394.

Justices to
license places
for making
loaded percus-
sion caps, and
making and
keeping am-
munition, &c.

11. It shall be lawful for the justices for each county or other division, at their general quarter sessions, or for the council of any borough, upon application made to them by any person, from time to time to license places for the making of loaded percussion caps, and for the making and keeping respectively of ammunition, fireworks, fulminating mercury, or other explosive preparations or compositions, and to determine the quantities of such articles respectively to be kept in any place so licensed, and to grant licences to persons to sell fireworks.

See 24 & 24 Vict. c. 130. s. 1., post, p. 394.

Notice of
intention to
apply for
licence.

12. Provided always, that every person making any application for any such licence as aforesaid shall give notice in writing of the intention to make the same, as also of the

place or places proposed for the purposes aforesaid respectively, 14 days before making it, as herein-after mentioned ; (that is to say,) such notice shall be given, where application is made in England, to an overseer or churchwarden of the parish or place in which it is proposed to erect or make any such new mill, with such houses and places as aforesaid, or any such magazine, or to make or use any building or place for any of the purposes aforesaid, or of an adjoining parish if the place be extra-parochial, and have no overseer ; and such applicant shall also in every such case cause the like notice to be affixed on the outside of the door or of the wall near the door of every church and chapel in such parish or place (including places of public worship not belonging to the Established Church), previously to the commencement of Divine service on a Sunday 10 days at least before the making of such application.

See 20 Vict. c. 19.

13. [Justices may make licences conditional on precautions prescribed by them for preventing danger being observed.]

14. [In case of refusal of licence, the applicant may memorialize Secretary of State, who shall have power, notwithstanding such refusal, to grant the licence.]

15. [Owners or occupiers of mills and places in which gunpowder, ammunition, fireworks, fulminating mercury, or any other explosive preparation or composition is manufactured or kept, or loaded percussion caps are manufactured, may make rules for their servants and workmen for preventing accidents.]

Rules for preventing accidents in mills, &c.

16. Any servant or workman of any owner or occupier of any mill, magazine, or place in which gunpowder, ammunition, fireworks, fulminating mercury, or any other explosive preparation or composition, is manufactured or kept, or loaded percussion caps are manufactured, who violates the rules made as aforesaid, and any such servant or workman, or any other person, who does or attempts to do any act in, to, or about such mill, magazine, or place tending to cause explosion, or who brings into such mill, magazine, or place anything tending to cause explosion, shall for every such offence be subject to a penalty not exceeding £5 on summary conviction before any justice ; and any such servant or workman as aforesaid, or other person so acting, may be apprehended without a warrant by any peace officer or other officer of the law, or the owner or occupier of such mill, magazine, or place, or his servant, or by any other person authorized by such owner or occupier,

Penalty for doing any act in any mill, &c. tending to cause explosion.

Power to apprehend offenders.

or his agent or manager, and removed from the mill or other premises, and may be conveyed with all convenient despatch before some justice, and such justice,..... shall proceed with all convenient despatch to the hearing and determining of the complaint against the offender.

Inspection of
mills, &c.

17. [Secretary of State may authorize persons to inspect mills, &c. Owner or occupier obstructing inspector to forfeit £5.]

Limitation of
quantities of
gunpowder to
be kept by
persons other
than manufac-
turers.

18. No person shall have or keep at one time, being a dealer in gunpowder, or manufacturer of cartridges, fireworks, or rockets, more than 200 pounds of gunpowder, and, not being such dealer or manufacturer, more than 50 pounds of gunpowder, in any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other building or place, (and for the purposes of this enactment all buildings and places adjoining to each other, and occupied together, shall be deemed one house or place,) or on any river or other water, (except in carriages loading or unloading or passing on the land, or in ships, boats, or vessels, loading or unloading, or passing on any river or other water, or detained there by the tide or bad weather,) within the following limits, being the limits within which gunpowder mills or magazines may not be licensed under this act; that is to say, within the city of London or Westminster, or within three miles of either of them; or within any borough or market town, or one mile of the same; or within two miles of any palace or house of residence of Her Majesty, her heirs or successors; or within two miles of any gunpowder magazine belonging to the Crown; or within half a mile of any parish church; or in any place beyond the limits aforesaid, except in mills or other places which at the commencement of this act shall be lawfully used for the making of gunpowder, and the magazines, storehouses, and offices near and belonging thereto, and in the magazines in which greater or unlimited quantities of gunpowder may be lawfully kept at the commencement of this act, and in the places where it shall be lawful to make gunpowder, or to keep greater or unlimited quantities of gunpowder, under the provisions of this act; and all gunpowder kept beyond the quantity hereby allowed, and the barrels or receptacles in which such gunpowder shall be kept, shall be forfeited, and any person keeping the same shall for every such offence forfeit not exceeding 2s. for every pound of gunpowder kept beyond the allowed quantity.

Extended by 24 & 25 Vict. c. 130. s. 4., post, p. 394.

19. [Gunpowder may be kept for mines, under certain conditions.]

Extended by 24 & 25 Vict. c. 130. s. 4., post, p. 394.

20. No person shall have or convey at one time more than 30 barrels of gunpowder in any waggon, cart, or other carriage by land, except in a van specially constructed for that purpose, enclosed on every side with wood, and then not more than 40 barrels, and, unless such carriage form part of a railway train, and then not more than 100 barrels in any carriage forming part of such train ;

Restrictions on carriage of gunpowder by land or water.

and no person shall have or convey at one time, within the United Kingdom, more than 500 barrels of gunpowder in any barge, boat, or other vessel by water, except in vessels with gunpowder imported from or to be exported to any place beyond the sea, or going coastwise ;

and all gunpowder conveyed on land or water (except in such vessels for importation or exportation of gunpowder, or going coastwise,) shall be in barrels, close joined and hooped, or in copper, zinc, or tin cases or canisters, enclosed in wooden boxes or barrels, without any iron about such boxes or barrels, and so secured that no part of the gunpowder be scattered in the passage ; and each barrel shall contain no more than 100 pounds of gunpowder ;

and every carriage in which gunpowder shall be conveyed by land shall have a complete covering of wood, painted cloth, tarpaulin, or wadmill tilts, over all the gunpowder therein contained ;

and no gunpowder shall be conveyed by water in any barge, boat, or other vessel not having a close deck (except in vessels with gunpowder imported or to be exported in manner aforesaid, or going coastwise) ; and as soon as any gunpowder is put on board such vessel, all such gunpowder shall be covered with raw hides or tarpaulins ;

and where any gunpowder conveyed by land or water is contained in any receptacles hereby authorized, other than barrels, no greater quantity shall be so conveyed than shall be equivalent to what might lawfully have been so conveyed if the same had been contained in barrels ;

and all gunpowder which shall be carried or conveyed (except in such vessels with gunpowder for importation or exportation as aforesaid, or going coastwise,) within any part of the United Kingdom in greater quantity or in other manner than is herein-before prescribed, and the barrels or other receptacles in which such gunpowder shall be, may be seized by any person, who shall have the same authority to remove such gunpowder and barrels or receptacles, and to

Power to seize gunpowder where restrictions infringed.

use for that purpose, during the space of 24 hours after seizure, the carriage or vessel in which such gunpowder shall be seized, and the tackling, beasts, and accoutrements belonging thereto, on the terms of paying a recompence for the use thereof, and to detain such gunpowder and barrels or receptacles, as is herein-after given to persons searching under a warrant of a justice and such seizure shall be for the use of the person making the seizure, on conviction of the offender or offenders.

No gunpowder to be loaded until that condemned be unloaded.

21. When any barge, boat, or vessel, having stale, condemned, or returned gunpowder on board, arrives at the quay, wharf, or other place where the same is intended to be landed, no person shall begin to unload, or shall bring down to such wharf, quay, or other place with intent to load, in such vessel, any other gunpowder, until the whole or part of such stale, condemned, or returned gunpowder be first unloaded or carried away from such wharf, quay, or other place of landing; and after such unloading and carrying away of part of such gunpowder no person shall begin to load or shall so bring down with intent to load any greater quantity of other gunpowder than the part unloaded and carried away, on pain of forfeiting all gunpowder so loaded or brought down contrary to this enactment.

22. [Penalty for smoking, &c. on board vessels loaded with gunpowder.]

23. [Penalty for undue delay in loading or unloading gunpowder.]

24. [Foregoing provisions to extend only to carriage of more than 100 lbs. of gunpowder.]

Power of justices to issue warrants to search.

25. It shall be lawful for any justice within the limits of whose jurisdiction gunpowder is suspected to be made, kept, or carried, contrary to this act, on demand made, and reasonable cause assigned upon oath by any person, to issue a warrant under his hand and seal for searching in the daytime any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, ship, boat, or vessel, in which such gunpowder is suspected to be made, kept, or carried contrary to this act; and all gunpowder found to be made, kept, or carried contrary to this act, and also the gunpowder barrels or other receptacles, shall be immediately seized by the searcher, who shall with all convenient speed after the seizure remove

such gunpowder, and the barrels or other receptacles in which it shall be, to such proper places as he, in conformity to the restrictions of this act, shall think fit, and in the case of any such gunpowder seized in any carriage or vessel may use for the purpose of removal, during the space of 24 hours after seizure, such carriage or vessel, with the tackling, beasts, and accoutrements belonging thereto, (paying afterwards to the owner or owners thereof a sufficient recompence for the use thereof, to be settled by the justices before whom the complaint shall be heard, after the seizure, and in case of nonpayment immediately after settlement by such justices to be recoverable as in the case of pecuniary penalties under this act,) and may detain such gunpowder, and the barrels or other receptacles in which it shall be, till it shall be adjudged, on a hearing before two or more such justices whether the same shall be forfeited; and such searcher or seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to the said gunpowder or barrels or other receptacles, other than by his wilful act or neglect, or the wilful act or neglect of the persons with whom he shall intrust the keeping thereof: Provided that where any gunpowder is seized under this provision, proceedings for the forfeiture thereof shall be commenced within 28 days after such seizure.

26. No master or commander of any ship or other vessel lying in the Thames, and outward-bound, shall receive or permit to be received on board any such ship or vessel more than 25 pounds of gunpowder (except for the Queen's service) before the arrival of such ship or vessel at, over, against, or below Blackwall; and the master or commander of every ship or vessel coming into the river Thames shall (except in the case of gunpowder for the service of the Crown) put on shore in proper places, in conformity to the restrictions of this act, all the gunpowder on board such ship or vessel above the quantity of 25 pounds, either before the arrival of such ship or vessel at Blackwall, or within 24 hours (if the weather shall permit) after coming to an anchor there, or to the place of unloading there, and shall not afterwards have on board more than 25 pounds of gunpowder (except for the service of the Crown), on pain of forfeiting for every offence in any of the said cases all the gunpowder found on board above the weight of 25 pounds, and the barrels or other receptacles in which such gunpowder shall be, and also not exceeding 2s. for every pound of gunpowder above the quantity of 25 pounds.

Regulations for the security of the vessels in the Thames.

Conservators
of the Thames
to appoint
searchers.

27. The conservators of the river Thames for the time being shall from time to time appoint one or more of the harbour masters of the port of London, or other person or persons, a searcher or searchers for unlawful quantities of gunpowder in ships or other vessels in the river Thames, which person or persons so appointed are hereby authorized, at any time between sun-rising and sun-setting, to enter any ship or vessel (except Her Majesty's ships) in the river Thames above Blackwall, and to search the same for unlawful quantities of gunpowder, and also shall have the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other receptacles in which such gunpowder shall be, as are herein-before given to persons searching for unlawful quantities of gunpowder under a warrant of a justice.

Forfeitures
and penalties
recoverable
summarily.

28. Any forfeiture or penalty, or forfeiture and penalty, (as the case may be,) for any offence against this act, and not herein otherwise provided for, may be enforced and recovered upon summary conviction of such offence before any two Justices and, save as herein otherwise provided, one moiety of every forfeiture and penalty for any offence against this act, or violation of any rules made thereunder, shall belong to Her Majesty, and the other moiety to the informer, anything in any act to the contrary notwithstanding:

Provided always, that if the informer be a person appointed under this act by the Secretary of State, or a servant of the person informed against, the moiety of the penalty which would otherwise belong to the informer shall be applied in such manner and to such other purposes as the justices in their discretion shall think fit

See 2 & 3 Vict. c. 71. ss. 14. 34. 47., ante, p. 43, 50, 56.

Section 29 relates to Ireland.

Act not to
extend to mills
erected on
crown lands,
magazines at
Barking Creek's
mouth, &c.

30. [This act not to extend to mills or buildings for making gunpowder on lands belonging to or held for the service of the Crown, or to the keeping of gunpowder at any store-house or magazine belonging to or held for the service of the Crown, or to the manufacture, loading, or keeping of percussion caps, ammunition, fireworks, or any preparation or compound of an explosive nature, in any place belonging to or held for the service of the Crown, or to hinder the trial of of gunpowder, by H.M.'s officers, as is usual, for the service of the Crown, or to the keeping of gunpowder at the

magazines now erected for that purpose at Barking Creek's mouth in Essex and Erith level in Kent, or to the keeping of gunpowder at the magazines or storehouses now erected near Bristol, or to the keeping of gunpowder in vessels moored in the Mersey under 14 & 15 Vict. c. 67., or to the carriage of gunpowder to or from magazines belonging to the Crown, under a special and express order of Secretary for War, or to the carriage of gunpowder with forces on their march or with the militia or volunteer corps during their exercise, or which shall be sent for the use of such forces, militia, or volunteer corps.]

31. [Act not to affect 54 Geo. 3. c. 159., or to extend to gunpowder, percussion caps, or combustible articles on board any ship, vessel, or boat of Her Majesty or in H.M.'s service, or required or kept for the use of H.M.'s navy, H.M.'s royal marine forces, the royal naval coast volunteers, the royal naval volunteers, or any force under the orders or control of the admiralty.]

Act not to affect 54 Geo. 3. c. 159., or to extend to gunpowder, &c. on board H. M. Ships, &c.

32. [Saving for proof houses under 18 & 19 Vict. c. cxlviii.]

33. This act shall not extend to hinder any person or persons from carrying or conveying an unlimited quantity of gunpowder, in such close-decked vessels and manner as herein-before is directed, from any ships or vessels lying below Blackwall to any of the magazines for gunpowder so situate below Blackwall, or from such magazines to any ships or vessels lying below Blackwall, and going to any place beyond sea or coastwise, or from the floating magazines in the river Mersey to any ships or vessels going to any place beyond seas or coastwise, or from any ships or vessels arriving from any place beyond seas or coastwise to the said floating magazines.

Act not to extend to hinder unlimited quantities of gunpowder being conveyed from ships below Black-wall, &c.

34. [Saving of enactments (9 Geo. 4. c. cxvi.) for protection of London Docks.]

35. This act shall not extend or be construed to repeal or affect the provisions with respect to gunpowder magazines, gunpowder, or fireworks contained in any general or local police act which may be in force in any place in the United Kingdom.

Saving for provisions of police acts.

36. And whereas [recites 2 & 3 Vict. c. 47. s. 35. and 9 & 10 Vict. c. 25. s. 12.] :

All powers given by the said acts of the second and third years and ninth and tenth years of Her Majesty, or by any act passed or to be passed in this present session of Parlia-

2 & 3 Vict. c. 47. and 9 & 10 Vict. c. 25. to be construed as referring to this act.

ment, by reference to the said act of the twelfth year of King George the Third, shall be construed as if this act had been referred to in the said acts of Her Majesty, instead of the said act of King George the Third.

Meaning of
the word
"borough."

37. "Borough" to mean any place subject to the provisions of 5 & 6 Will. 4. c. 76.

24 & 25 VICT. c. 130.

1. [Powers of granting licences given by 23 & 24 Vict. c. 139. to justices at quarter sessions transferred to justices in petty sessions, to be exercised at special petty sessions holden for the purpose.]

Mode of appli-
cation for
licence, and
table of fees.

2. The justices in each petty sessional division may, with the sanction of Secretary of State, regulate the mode in which applications for licences under this act are to be made, and make a scale of fees to be charged in respect of such licences.

3. [Act to be construed with 23 & 24 Vict. c. 139.]

4. [Sections 18 and 19 of 23 & 24 Vict. c. 139. to apply to manufactures of safety fuzes.]

CUTTING ADRIFT CUSTOMS BOATS.

19 & 20 VICT. c. 75.

Penalty on
persons cut-
ting adrift
boats belong-
ing to the
Customs.

3. Every person who shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal any boat, buoy, rope, or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use of the service of the Customs, shall for every such offence forfeit the sum of £10.

See also 24 & 25 Vict. c. 97. s. 48., post, p. 471.

SALE OF ARSENIC REGULATION.

14 & 15 VICT. c. 13.

Entry of
particulars.

1. [On every sale of arsenic particulars of sale to be entered in a book by the seller in form set forth in schedule to act.]

2. [No person to sell arsenic to a person unknown to him, unless in presence of a witness known to seller, and to whom the purchaser is known, and who signs his name with his place of abode to entries, before delivery of the arsenic, and no person to sell arsenic to any person not of full age.]

Restrictions as to sale of arsenic.

3. [No person to sell arsenic unless mixed with soot or indigo in the proportion of one ounce of soot or half an ounce of indigo at least to one pound of arsenic.]

Provision for colouring arsenic.

Where arsenic stated to be required for some purpose for which such admixture would render it unfit, it may be sold without admixture in quantity of not less than ten pounds at a time.]

4. If any person sell any arsenic, save as authorized by this act, or on any sale of arsenic deliver the same without having made and signed the entries hereby required on such sale, or without having obtained such signature or signatures to such entries as required by this act, or if any person purchasing any arsenic give false information to the person selling the same in relation to the particulars which such last-mentioned person is hereby authorized to inquire into of such purchaser, or if any person sign his name as afore-said as a witness to a sale of arsenic to a person unknown to the person so signing as witness, every person so offending shall for every such offence, upon a summary conviction for the same before two justices.....be liable to a penalty not exceeding £20.

Penalty for offending against this act.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

5. [Act not to prevent sale of arsenic in medicine under a medical prescription or by wholesale.]

6. ["Arsenic" to include all colourless poisonous preparations of arsenic.]

"Arsenic" to include arsenious compounds.

The SCHEDULE.

Day of sale.	Name and surname of purchaser.	Purchaser's place of abode.		Condition or occupation.	Quantity of arsenic sold.	Purpose for which required.
1 September 1851.	John Thomas.	Hendon.	Elm Farm.	Farm Labourer.	5 lbs.	To steep wheat.

(Purchaser's signature.)

John Thomas.

Or, if purchaser cannot write, seller to put here the words, "cannot write."

Witness,

James Stone,
Grove Farm, Hendon.

(Seller's signature.)

George Wood.

OFFENCES CONCERNING THE MILITIA, ENGLAND.

15 & 16 VICT. c. 50.

[This act, after reciting the Militia Act, 42 Geo. 3. c. 90., and the suspension of all proceedings for and relating to the balloting or enrolment of militia men under divers acts, and lastly, under 14 & 15 Vict. c. 32., until 1st October 1852, subject to the power of the Queen, by Order in Council, to direct such proceedings to be had at any time before the expiration of that period, and that it was expedient, for better fulfilling the purposes of the institution of the militia with as little disturbance as might be to the ordinary occupations of the people, the laws for raising and regulating the militia should be amended, makes provision for raising a militia by voluntary enlistment.]

Period for training of militia.

26. [43 Geo. 3. c. 19. and 55 Geo. 3. c. 65. s. 5. repealed as to England.]

The period of training and exercise shall, save as herein-after provided, be 21 days in every year; and Her Majesty may, if she see fit, direct all or any part of the militia of any county, riding, or place to be called out for training and exercise more than once in every or any year, and at such time or times as Her Majesty may think fit, so as the whole period of training and exercise of any militia man do not exceed 21 days in any year, save as herein-after provided.

Her Majesty may, by order in Council, cause militia to be exercised out of their own counties, or extend or reduce the period of exercise.

27. Provided always, that it shall be lawful for Her Majesty, from time to time, where, with the advice of Her Privy Council, she may see fit, to order all or any part of the militia to be marched out of their own respective counties, ridings, or places into any part of England or Wales, for the purpose of training and exercise, and also where, with such advice as aforesaid, Her Majesty may see fit so to do, to extend or reduce the period of training and exercise of all or any part of the militia, so as the whole period of training and exercise in any year shall not exceed fifty-six days nor be less than three days.

See 17 & 18 Vict. c. 105. s. 55., post, p. 399.

Militia may be billeted in the beer houses in which soldiers may be billeted.
1 Will. 4. c. 64.

34. The provisions of any act or acts applicable for or to the quartering and billeting of the militia shall extend and be applicable for and to the quartering and billeting of the militia in the houses and premises of all persons licensed to sell beer or cider by retail under the act of the first year of King William the Fourth, "to permit the general sale of beer and cider by retail in England," and the acts amending

the same, to whom, under such acts or any of them, the provisions in respect of billeting soldiers in victualling houses contained in any act for punishing mutiny and desertion, and the better payment of the army and their quarters, are declared or made to extend.

See 4 & 5 Will. 4. c. 85. s. 5., ante, p. 191.

17 & 18 VICT. c. 105.

34. Innkeepers and others who, according to the provisions of the act for punishing mutiny and desertion, are liable to have soldiers billeted upon them, shall in like manner be subject to have the permanent staff of the militia, when disembodied, billeted upon them, and in default of their providing convenient lodging, with fire and candle, as prescribed in 42 Geo. 3. c. 90. s. 94., shall be liable to the penalties imposed upon civil subjects offending against the laws relating to billets as prescribed by the said acts* for punishing mutiny and desertion.

Permanent staff to be billeted.

* Sic.

See 4 & 5 Will. 4. c. 85. s. 5., ante, p. 191.

38. [Times and places of exercise to be appointed without general meetings of lieutenancy.]

Repealed by 22 & 23 Vict. c. 38. s. 8., post, p. 399.

39. Notices to men who are enrolled in the militia in England to attend training and exercise shall be sent, by the order of the colonel or commanding officer of the regiment, battalion, or corps to which such men belong, by the post, to the residences of the several men as stated on their attestations, or as subsequently notified by them, and notices shall also be sent by the post to the constables, tithingmen, headboroughs, and other officers of the respective parishes, tithings, and places in which such men are so stated to be resident, with directions to cause the same to be affixed on the door or the outer wall near the door of every church and chapel in their respective parishes, tithings, or places, including places of public worship which do not belong to the Established Church; and if any place have no church or chapel, then in such manner as public notices are usually made known in such places, and on the doors or outer walls as aforesaid of the churches or chapels of some parish, tithing, or place adjoining; and every such constable, tithingman, headborough, and other officer as aforesaid shall, within three days after the receipt of any such notice, cause the same or copies thereof to be affixed accordingly;

How notices of times and places of exercise to be given.

and any such constable, tithingman, headborough, or officer who wilfully neglects so to do shall for every such offence, on conviction thereof before two justices, forfeit any sum not exceeding £20; and such notice shall be deemed a sufficient notice to every person enrolled by virtue of 15 & 16 Vict. c. 50., notwithstanding any omission in the notices by post; and any such man not appearing at the time and place appointed in any such notice shall be subject to be punished and dealt with accordingly.

See 2 & 3 Vict. c. 47. s. 14., ante, p. 13., and c. 71. s. 14., ante, p. 43., and 3 & 4 Vict. c. 84. s. 10., ante, p. 61.

40. [Penalties for fraudulent re-enlistment.]

Punishment of men not attending or absenting themselves during training, and not taken till after.

45. Every militiaman raised under 15 & 16 Vict. c. 50., (not labouring under any certified infirmity or incapacity,) who shall not appear at the time and place appointed for his being exercised (notice having been given as by law required), or who, having joined the regiment, battalion, or corps to which he belongs, or any company or companies or any detachment or division thereof, shall desert or absent himself during the time of any such exercise, shall be deemed a deserter, and, upon conviction thereof before any justice, be liable to pay a sum not exceeding £10; and if such penalty be not immediately paid the said justice shall sentence such militiaman to the house of correction or to the common gaol, there to be imprisoned, with or without hard labour, for any period not exceeding three months, unless the penalty be sooner paid; provided that any information may be laid against such militiaman under this section at any time within the period of his engagement in the militia.

Extended by 23 & 24 Vict. c. 94. s. 14., post, p. 399.

Provision for apprehension of militiamen not attending or absenting themselves during training.

46. The commanding officer of any regiment, battalion, or corps of militia shall notify to the Secretary-at-War, and to the constables, tithingmen, headboroughs, or other officers of the parishes, titblings, and places in which militiamen reside who have not attended training and exercise, or who may have absented themselves during the time of training and exercise of their respective regiments, battalions, or corps, the names and descriptions of all such militiamen who have so absented themselves; and it shall be lawful for any constable, tithingman, headborough, or officer, or for any officer or soldier in Her Majesty's service, or in the militia, to apprehend or cause any such militiaman to be apprehended, and to bring him or cause him to be brought before any justice, at any time within the period of his

engagement in the militia, to be dealt with as herein-before mentioned, or to be committed to safe custody until an escort can be sent for him, if such regiment, battalion, or corps be then out for training and exercise. [Justice to transmit a report to the Secretary-at-War, who is to transmit to such justice an order for the payment to the person or persons by whom such militiaman was apprehended and secured of such sum not exceeding 20*s.* as the Secretary-at-War may think fit.]

See note on last preceding section.

47. [Penalty for inducing militiamen to absent themselves, or harbouring or employing militiamen absenting themselves.]

48. [Penalty for buying arms or militia stores.]

54. [Act to extend to stannaries of Cornwall and Devon, and to the corps of miners of Cornwall and Devon.]

55. [Secretary of State to have power to move regiments not embodied into any quarters in the United Kingdom during training.]

22 & 23 VICT. c. 38.

8. [17 & 18 Vict. c. 105. s. 38. repealed, and times and places for training and exercise of militiamen to be appointed by Her Majesty by order signified by Secretary of State.]

23 & 24 VICT. c. 94.

14. It shall be lawful for Her Majesty, by order or regulations signified by the Secretary of State, to direct that any militia volunteer, upon or at any time after his enrolment, be drilled, trained, or exercised, by way of preliminary instruction, at the head quarters of the regiment, [&c.,] in which he is enrolled, or at any other convenient place, for any time not exceeding 28 days, although the regiment [&c.] be not then called out for training and exercise, and during the period of preliminary instruction the volunteer shall be subject to the same articles of war and to the same laws as if he were a militiaman lawfully called out for training and exercise, but such period shall not be reckoned in lieu or in diminution of the time during which he might have been called out for training and exercise independently of this enactment.

Militia volunteers may be subjected to preliminary drill in addition to other training.

OFFENCES CONCERNING THE NAVY.

10 & 11 VICT. c. 62.

Apprehension
of deserters.

9. It shall be lawful for the constable of any place where any person reasonably suspected to belong to Her Majesty's navy, and to be a deserter or improperly absent from his duty, shall be found, or of any adjoining place, and if no such constable can be immediately met with to secure him, then for any person in Her Majesty's service, to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any justice [who shall examine such suspected person, and if it appear that such person belongs to Her Majesty's navy, and is improperly absent from duty, such justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and transmit an account thereof to the Secretary of the Admiralty, &c.]; and in all cases the justice shall certify the name of the person by whom the offender was apprehended, and such last-mentioned person shall be entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being in that behalf, or in case the apprehension shall be under circumstances for which no reward is or may be established, the amount of such reward shall be any sum in the discretion of the [Admiralty], or of the officer commanding the vessel to which the deserter or person improperly absent belongs, not exceeding £3, and the reward shall in every case be paid and charged against the wages or pay of any such offender, and stopped out of the same; and every gaoler or other person having the custody of any such offender shall deliver him up to any person authorized to take charge of him by the [Admiralty], or by any naval commander-in-chief, or the officer commanding any one of Her Majesty's ships or vessels, and any person so authorized shall convey him in safe custody on board any one of Her Majesty's ships or vessels in commission.

10. [Fraudulent confession of desertion.]

Penalty for
persuading
persons to
desert or
absent them-
selves from
duty.

11. Every person who, by words or any other means whatsoever, shall persuade any person in Her Majesty's navy to desert or improperly absent himself from his duty, shall forfeit and pay the sum of £20 for every such act; and every person who shall assist or procure any person in Her Majesty's navy to desert or improperly absent himself from his duty, or shall conceal, employ, or continue to employ any person belonging to Her Majesty's navy, who shall be a

deserter, or improperly absent from his duty, knowing him to be such a deserter or so improperly absent, shall forfeit and pay the sum of £30 for every such assistance, procurement, concealment, employment, or continuing of employment as aforesaid.

13. [Penalties recoverable, with costs, by summary proceedings before any justice or justices residing in or near to the place where the offence is committed, or where the offender happens to be; and if the sum imposed as a penalty be not paid, the offender, in default of payment, may be imprisoned, with or without hard labour, for not exceeding six calendar months; the commitment to be determinable on payment of the amount and costs; one moiety of every penalty is to be paid to the informer or complainant, and the residue thereof to the Commissioners of Greenwich Hospital, anything in any act to the contrary notwithstanding.]

Recovery and application of penalties.

See 2 & 3 Vict. c. 71. s. 34., ante, p. 50.

16 & 17 VICT. c. 69.

12. It shall not be lawful for any person to bring on board any of Her Majesty's ships or vessels any spirituous or fermented liquor of any description, without the previous consent of the officer commanding the ship or vessel on board of which the same may be brought; and it shall be lawful for any officer in Her Majesty's service, or warrant or petty officer of the navy, or non-commissioned officer of marines, with or without seamen or persons under his command, to search any boat or vessel hovering about or approaching, or which may have hovered about or approached, any of Her Majesty's ships or vessels, and if any spirituous or fermented liquor be found on board such boat or vessel, to seize such spirituous or fermented liquor, and the same shall be forfeited to Her Majesty; and if any person bring any spirituous or fermented liquor on board any of Her Majesty's ships or vessels, without such previous consent as aforesaid, or approach or hover about any of Her Majesty's ships or vessels for the purpose of bringing any spirituous or fermented liquor on board the same, without such previous consent, or for the purpose of giving or selling, without such previous consent, spirituous or fermented liquor to men in Her Majesty's service, or of aiding or assisting any officer, seaman, or marine in Her Majesty's service to desert or improperly absent himself from his ship or vessel, every such person shall, upon a summary conviction thereof before a

Spirituous or fermented liquors not to be brought on board Her Majesty's ships without the commander's consent.

Penalty on offenders.

404 MEDICAL PRACTITIONERS REGULATION. [21 & 22 Vict. c. 90.]

27. [Register to be published annually, and absence of name from such register to be prima facie evidence of non-registry.]

Meaning
of terms
"legally
qualified
medical
practitioner,"
&c.

* Sic.

34. After the 1st of January 1859, the word* "legally qualified medical practitioner" or "duly qualified medical practitioner," or any words importing a person recognized by law as a medical practitioner or member of the medical profession, when used in any act of parliament, shall be construed to mean a person registered under this act.

1st July substituted for 1st January by 22 Vict. c. 21. s. 1., and see 23 Vict. c. 7.

Registered
persons ex-
empted from
serving on
juries, &c.

35. Every person registered under this act shall be exempt, if he so desire, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred, and township offices, and from serving in the militia, and the name of such person shall not be returned in any list of persons liable to serve in the militia, or in any such office as aforesaid.

No certificate
to be valid
unless person
signing be
registered.

37. [After 1st of January 1859, no certificate required by any act now in force or hereafter passed from any physician, surgeon, licentiate in medicine and surgery, or other medical practitioner, to be valid unless the person signing same be registered under this act.]

1st July substituted for 1st January by 22 Vict. c. 21. s. 1., and see 23 Vict. c. 7.

Penalty for
falsely pre-
tending to be
a registered
person, &c.

40. Any person who wilfully and falsely pretends to be or takes or uses the name or title of a physician, doctor of medicine, licentiate in medicine and surgery, bachelor of medicine, surgeon, general practitioner or apothecary, or any name, title, addition, or description implying that he is registered under this act, or that he is recognized by law as a physician, or surgeon, or licentiate in medicine and surgery, or a practitioner in medicine, or an apothecary, shall, upon a summary conviction for any such offence, pay a sum not exceeding £20.

Recovery of
penalties.

41. Any penalty to which under this act any person is liable on summary conviction of any offence may be recovered in England in manner directed by 11 & 12 Vict. c. 43.

LASTAGE AND BALLASTAGE IN THE RIVER THAMES.

6 & 7 VICT. c. lvii.

23. No ballast shall be unladen or thrown from or out of any vessel, barge, or lighter into the river Thames; and the master of any vessel, barge, or lighter in the said river who shall throw or cause or suffer to be thrown any ballast out of any such vessel, barge, or lighter into the said river, or shall place or cause or suffer to be placed any such ballast on any shore or ground below the high-water mark in the said river, shall forfeit for every such offence the sum of £20.

Penalty on throwing ballast out of vessels into the Thames.

24. Every person who unloads, puts, or throws into the said river Thames, or on any shore or ground below the high-water mark of the said river, either eastward or westward of London bridge, any rubbish, earth, ashes, dirt, mud, or soil from any wharf, quay, or bank adjoining or near to the said river Thames, or from or out of any vessel, barge, or lighter, shall forfeit for every such offence any sum not exceeding £20 nor less than 40s.;

Penalty on throwing rubbish, &c. into the Thames.

and it shall be lawful for any police constable, and for all persons whom he shall call to his assistance, to take into custody, without a warrant, any person who shall unload, put, or throw any rubbish, earth, ashes, dirt, mud, or soil into any part of the river Thames, or on any shore or ground below the high-water mark of the said river, eastward or westward of London bridge.

Offenders may be apprehended by constables.

29. [Penalty for obstructing the passage of ballast lighters, not exceeding £5. nor less than 40s.]

31. [Penalty on ballast-men for short delivery of ballast, not exceeding 10s. nor less than 3s. per ton.]

32. [Penalty for neglect, refusal, or irregularity in delivery of ballast, not exceeding 10s. nor less than 3s. per ton.]

36. [Ballast-men maliciously destroying vessels, &c. guilty of felony. Punishment.]

37, 38. [Ballast-man doing other damage to vessels liable to penalty not exceeding £20 nor less than 40s., and to make compensation to party injured; or liable to be committed for trial at quarter sessions.]

40. [Officers, ballast-men, &c. to be subject to the government of the corporation of Trinity House; who may make bye laws, &c.]

41. [Existing byelaws to remain in force until altered.]

Master, &c. of
Trinity House
to act as
justices.

43. [The master and deputy of the corporation of Trinity House and his deputy to act as justices in Middlesex, Surrey, Essex, and Kent, as to offences under this act]; and every peace officer of Middlesex, Surrey, Essex, and Kent respectively to whom any warrant of any such master or deputy, issued under his hand and seal for any of the purposes for which he is hereby empowered to act as a justice as aforesaid, shall be directed, is hereby required to obey and execute any such warrant without delay: Provided always, that nothing herein contained shall authorize or empower any such master or deputy to act as a justice on the commitment, trial, or conviction of any master of any vessel or other person not in the service of the said corporation, or in any case in which any pecuniary penalty may be demanded against a ruler of a ballast office for not supplying lighters for unloading of ballast, or for neglecting or refusing to reweigh any lighter.

44. [Saving of existing jurisdiction of justices.]

Continuance of
act.

57. [Act to continue in force for 21 years, and thence to end of then next session.]

IMPROVEMENT OF LAW WITH RESPECT TO SUMMARY PROCEEDINGS BEFORE JUSTICES.

20 & 21 VICT. c. 43.

Interpretation
of terms.

["Superior courts of law" to mean the supreme courts of Law at Westminster:
"Court of Queen's Bench" to mean the court of Queen's Bench at Westminster.]

Justices, on
application of
a party ag-
grieved, to
state a case
for the opinion
of superior
court.

2. After the hearing and determination by a justice or justices of any information or complaint which he or they have power to determine in a summary way, by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said justice or justices, to state and sign a case setting forth the facts and the grounds of such determination, for the opinion thereon of one of the superior courts of law to be named by the party applying; and such party, herein-after called "the appellant," shall

within three days after receiving such case, transmit the same to the court named in his application, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, herein-after called "the respondent."

3. [Security to be given by the appellant; appellant, if in custody, to be liberated on recognizance to appear.]

4. [Justices may refuse a case where they think the application frivolous.]

5. [Where the justices refuse, the court of Queen's Bench may by rule order a case to be stated.]

6. [Superior court to determine the questions on the case: its decision to be final.]

7. [Case may be sent back for amendment.]

8. [Powers of superior court may be exercised by a judge at chambers.]

9. [After the decision of superior court, justices may issue warrants for enforcing conviction where affirmed, &c.]

10. [Certiorari not to be required for proceedings under this act.]

11. [Superior courts may make rules for proceedings.]

12. ["Justices" to include a stipendiary magistrate.]

13. [Recognizances how to be enforced.]

14. [Appellants under this act not allowed to appeal to quarter sessions.]

VEXATIOUS INDICTMENTS PREVENTION.

22 & 23 VICT. c. 17.

1. [No bill of indictment for---

Perjury,
Subornation of perjury,
Conspiracy,
Obtaining money or other property by false pre-
tences,
Keeping a gambling house,
Keeping a disorderly house, or
Any indecent assault,

Restriction on
presentment of
indictments
for certain
offences.

to be presented to any grand jury, unless prosecutor or other person presenting the indictment has been bound by recognizance to prosecute or give evidence against the person accused, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred for such offence, or unless such indictment be preferred by or with the direction or consent in writing of a Judge of one of the superior courts of law at Westminster, or of the Attorney or Solicitor General.]

If Justice refuse to commit, recognizance to be taken, &c. if prosecutor desire to prefer indictment.

2. [Where any charge or complaint is made before any justice that any person has committed any of the said offences within the jurisdiction of such justice, and such justice refuses to commit or to bail the person charged to be tried, then, if prosecutor desire to prefer an indictment, justice to take recognizance of prosecutor to prosecute, and to transmit such recognizance, &c. to the court in which such indictment ought to be preferred, as such justice would have done on a commitment for trial for such offence.]

ADMINISTRATION OF CRIMINAL JUSTICE IMPROVEMENT.

14 & 15 VICT. c. 100.

1. [On trial of indictment for felony or misdemeanor, court may amend certain variances not material to the merits of the case, and by which defendant cannot be prejudiced in his defence, and may either proceed with or postpone trial to be had before the same or another jury.]

2. [Verdicts and judgments valid after amendments.]

3. [Records to be drawn up in amended form, without noticing the amendments.]

4. [The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414 : See c. 100. s. 6.

5. [Forms of indictment in cases of forgery and uttering, stealing and embezzling, or obtaining by false pretences.]

Repealed in part by 24 & 25 Vict. c. 95., post, p. 414 : See c. 98. s. 42.

6. [In cases of engraving plates, &c.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414 : See c. 98. s. 43.

7. [In other cases.]

8. [Intent to defraud particular persons need not be alleged or proved in cases of forgery, uttering, or false pretences.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414 : See c. 96. s. 88., and c. 98. s. 44.

9. [A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for such attempt.]

10. [Repeal of 1 Vict. c. 85. s. 11.]

11. [On trial of an indictment for robbery jury may convict of an assault with intent to rob. No person so tried to be afterwards prosecuted for assault with intent.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414 : See c. 96. s. 41.

12. [Person tried for misdemeanor not to be acquitted if the offence turn out to be felony, unless the court so direct.]

Sections 13-17. are repealed by 24 & 25 Vict. c. 95., post, p. 414 : See c. 94. s. 6., and c. 96. ss. 5, 6, 72, 93, 94., post.

18. [Coin and bank notes may be described simply as money.]

19. [Any court, judge, justice, &c. may direct a person guilty of perjury in any evidence, &c. to be prosecuted ; and commit the party, unless he enter into recognizance to appear and take his trial and bind persons to give evidence ; and give certificate of prosecution being directed, which shall be sufficient evidence of the same.]

Judge, &c. may direct prosecution for perjury.

20. [Indictments for perjury and other like offences, what to set out.]

21. [Extending 23 Geo. 2. c. 11. s. 2. as to form of indictments for subornation of perjury and other like offences.]

22. [On trials for perjury and subornation a certificate of the trial of the indictment on which the perjury was committed sufficient evidence of such trial.]

23. [Venue in the margin of indictment sufficient, except where local description is necessary.]

24. [What defects shall not vitiate an indictment.]

25. [Formal objections to indictments to be taken before jury are sworn ; court may amend.]

26. [Repeal of part of 60 Geo. 3. & 1 Geo. 4. c. 4. as to traverse of indictments in cases of misdemeanor.]

27. [Provision as to traversing indictments.]

28. [Provision as to plea of autrefois convict or autrefois acquit.]

29. [Punishment of imprisonment for certain indictable misdemeanors may include hard labour.]

Repealed in part by 24 & 25 Vict. c. 95., post, p. 414 : See c. 100. ss. 47, 52, 62., post.

30. [Interpretation of terms.]

ADMINISTRATION OF CRIMINAL JUSTICE IN MIDDLESEX.

22 & 23 Vict. c. 4.

General sessions for Middlesex to have powers of quarter sessions.

4. Every general session of the peace for the county of Middlesex, and every adjournment thereof, shall have power to try and determine all appeals, and all other powers which do now or shall hereafter belong to the general quarter sessions for the said county.

SUBSTITUTION OF OTHER PUNISHMENT FOR TRANSPORTATION.

16 & 17 VICT. c. 99.

Sections 1-4 repealed by 20 & 21 Vict. c. 3. s. 1., post, p. 412.

5. [Conditional pardons to be allowed with reference to the substituted punishment, as in cases of pardons on condition of transportation.]

Persons under sentence or order of penal servitude how to be dealt with.

6. Every person who under this act shall be sentenced or ordered to be kept in penal servitude may, during the term of the sentence or order, be confined in any such prison or place of confinement in any part of the United Kingdom, or in any river, port, or harbour of the United Kingdom, in which persons under sentence or order of transportation may now by law be confined, or in any other prison in the United Kingdom, or in any part of Her Majesty's dominions beyond the seas, or in any port or harbour

thereof, as one of Her Majesty's Principal Secretaries of State may from time to time direct; and such person may during such term be kept to hard labour and otherwise dealt with in all respects as persons sentenced to transportation may now by law be dealt with while so confined.

7. [All acts &c. concerning convicts sentenced to transportation made applicable for the purposes of this act.]

See also 20 & 21 Vict. c. 3. s. 3., post, p. 412.

9. [Her Majesty may grant licences to be at large to convicts under sentence of transportation.]

10. [Licence while in force to exempt from imprisonment, &c. under sentence.]

11. Provided always, that if it please Her Majesty to revoke any such licence as aforesaid it shall be lawful for one of Her Majesty's Principal Secretaries of State, by warrant under his hand and seal, to signify to any one of the police magistrates of the metropolis that such licence has been revoked, and to require such magistrate to issue his warrant under his hand and seal for the apprehension of the convict to whom such licence was granted, and such magistrate shall issue his warrant accordingly, and such warrant shall and may be executed by the constable to whom the same shall be delivered for that purpose in any part of the United Kingdom, or in the isles of Jersey, Guernsey, Alderney, or Sark, and shall have the same force and effect in all the said places as if the same had been originally issued or subsequently endorsed by a justice or magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the magistrate by whom the said warrant shall have been issued, or some other magistrate of the same court, and such magistrate shall thereupon make out his warrant, under his hand and seal for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said licence, and such convict shall be so re-committed accordingly, and shall thereupon be remitted to his or her original sentence, and shall undergo the residue thereof as if no such licence had been granted.

If licence revoked, convict may be apprehended, and re-committed.

Amended by 20 & 21 Vict. c. 3. s. 5., post, p. 412.

12. [Persons convicted of larceny after previous conviction for felony not to be transported.]

Repealed by 24 & 25 Vict. c. 95., post, p. 414: See c. 96. s. 7., post.

13. [Queen's prerogative saved.]

14. [Discretion of courts as to alternative punishments not to be affected.]

20 & 21 VICT. c. 3.

[16 & 17 Vict. c. 99. recited.]

1. [Sections 1, 2, 3, and 4, of recited act repealed.]

Sentence of
transportation
abolished, and
sentence of
penal servitude
substituted.

2. After the commencement of this act no person shall be sentenced to transportation; and any person who, if this act and the said act had not been passed, might have been sentenced to transportation, shall, after the commencement of this act, be liable to be sentenced to be kept in penal servitude for a term of the same duration as the term of transportation to which such person would have been liable if the said act and this act had not been passed; and in every case where, at the discretion of the court, one of any two or more terms of transportation might have been awarded, the court shall have the like discretion to award one of any two or more of the terms of penal servitude which are hereby authorized to be awarded instead of such terms of transportation: Provided always, that any person who might, at the discretion of the court, have been sentenced either to transportation for any term or to any period of imprisonment, shall be liable, at the discretion of the court, to be sentenced either to penal servitude for the same term or to the same period of imprisonment; and in any case in which before the passing of the said act sentence of seven years transportation might have been passed, it shall be lawful for the court, in its discretion, to pass a sentence of penal servitude of not less than three years.

3. [Provisions of acts concerning transported offenders to apply to offenders under sentence of penal servitude.]

4. [Existing power to appoint places of transportation to be applicable for the appointment of places beyond the seas to which offenders sentenced to penal servitude may be conveyed.]

5. [Magistrates may re-commit convicts whose licences are revoked to penal servitude in any convict prison, and not to that from which convict was released only, as provided in 16 & 17 Vict. c. 99.]

6. Where in any enactment now in force the expression "any crime punishable with transportation," or "any crime punishable by law with transportation," or any expression of the like import, is used, the enactment shall be construed and take effect as applicable also to any crime punishable with penal servitude.

All enactments referring to transportation to have reference to penal servitude.

7. [Recited act and this to be read as one.]

AS TO DOUBLE COSTS, NOTICES OF ACTION, LIMITATIONS OF ACTIONS, AND PLEAS OF THE GENERAL ISSUE, UNDER CERTAIN ACTS OF PARLIAMENT.

5 & 6 VICT. c. 97.

1. [So much of any provision in any act commonly called public local and personal, or local and personal, or in any act or acts of a local or personal nature, whereby it is provided that either double or treble costs, or any other than the usual costs between party and party, shall or may be recovered, repealed: Provided that in lieu thereof usual costs between party and party shall and may be recovered]

Repeal of provisions in local and personal acts giving double and treble costs.

2. [So much of any provision in any public act or acts, not local or personal, whereby it is provided that either double or treble costs, or any other than usual costs between party and party, shall or may be recovered, repealed. Party or parties heretofore entitled thereto to receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about any action, suit, or other legal proceeding, as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner and by the same authority as any other taxation of costs by such officer.]

Repealing provisions in public acts giving double and treble costs.

3. [So much of any provision in any act commonly called public local and personal, or local and personal, or in any act or acts of a local and personal nature, whereby parties are permitted to plead the general issue only, and to give special matter in evidence, without specially pleading same, repealed.]

Repeal of provisions in local and personal acts allowing general issue.

4. [In all cases where notice of action is required, such notice to be given one calendar month at least before action commenced;* and such notice sufficient, any act to the contrary notwithstanding.]

Uniformity of notice of action.

* It would seem the time is to be reckoned exclusively of the day of giving the notice and of the day on which the action is commenced. *Young v. Higgon*, 6 Meeson and Welsby's Rep., 49.

General limitation of actions under local and personal acts.

5. And whereas divers acts commonly called public local and personal, or local and personal acts, and divers other acts of a local and personal nature, contain clauses limiting the time within which actions may be brought for anything done in pursuance of the said acts respectively :

[The period within which any action may be brought for anything done under the authority or in pursuance of any such act shall be two years, or in case of continuing damage one year after damage has ceased ; and so much of any provision by which any other limitation is appointed repealed.]*

STATUTE LAW CONSOLIDATION. REPEAL OF ACTS.

24 & 25 VICT. c. 95.

Whereas by six several acts of the present session, relating respectively to offences against the person, malicious injuries to property, larceny, forgery, coining, and accessories and abettors, divers acts and parts of acts have been consolidated and amended, and it is expedient to repeal the enactments so consolidated and amended, and certain other enactments :

1. [Repeal of acts and parts of acts mentioned in schedule from 31st October 1861, save as to Scotland, except where otherwise expressed.]

For the Schedule see Appendix (G.)

2. [Repeal not to affect the colonies in certain cases.]

3. [Repeal not to affect offences, &c. committed before commencement of act.]

4. [Repeal not to affect any authority to amend registers of births, &c.]

LARCENY AND OTHER SIMILAR OFFENCES (CONSOLIDATION AND AMENDMENT OF STATUTE LAW).

24 & 25 VICT. c. 96.

Interpretation of terms :
"Document of title to goods :"

1. In the interpretation of this act :

The term "document of title to goods" shall include any bill of lading, India warrant, dock warrant, warehouse

* 2 & 3 Vict. c. 71. is not an act of a local and personal nature within this enactment. *Barnett v. Cox*, 9 Queen's Bench Rep., 617. In *Moore v. Shepherd*, 10 Exchequer Rep. 424, the propriety of this decision was questioned.

keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to :

The term "document of title to lands" shall include any deed, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate, or to any interest in or out of any real estate :

"Document of title to lands:"

The term "trustee" shall mean a trustee on some express trust created by some deed, will, or instrument in writing, and shall include the heir, or personal representative, of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator, or other like officer acting under any present or future act relating to joint stock companies, bankruptcy, or insolvency :

"Trustee:"

The term "valuable security" shall include any order, exchequer acquittance, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom, or of Great Britain or of Ireland, or of any foreign state, or in any fund of any body corporate, company, or society, whether within the United Kingdom or in any foreign state or country, or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the United Kingdom, or of Great Britain, or of Ireland, or of any foreign state, and any document of title to lands or goods as herein-before defined :

"Valuable security:"

The term "property" shall include every description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include, not only such property as shall have been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted, or exchanged, and

"Property;"

anything acquired by such conversion or exchange, whether immediately or otherwise :

“Night.”

For the purposes of this act, the night shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day.

All larcenies to be of the same nature.

2. Every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the 21st June 1827 ;

and every court whose power as to the trial of larceny was before that time limited to petty larceny shall have power to try every case of larceny, the punishment of which cannot exceed the punishment herein-after mentioned for simple larceny, and also to try all accessories to such larceny.

Bailees fraudulently converting property guilty of larceny.

3. Whosoever, being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof upon an indictment for larceny ; but this section shall not extend to any offence punishable on summary conviction.

Punishment for simple larceny.

4. Whosoever shall be convicted of simple larceny, or of any felony hereby made punishable like simple larceny, shall (except in the cases herein-after otherwise provided for) be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

5. [Three larcenies against the same person within six months may be charged in one indictment.]

6. [Where a single taking is charged, and several takings at different times are proved exceeding three, or not committed within six months, prosecutor to elect on which to proceed.]

Punishment for larceny, after a conviction for felony.

7. Whosoever shall commit the offence of simple larceny after a previous conviction for felony, whether such conviction shall have taken place upon an indictment, or

under the provisions of 18 & 19 Vict. c. 126., shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 10 years and not less than three years,—or to, be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

8. Whosoever shall commit the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been previously convicted of any indictable misdemeanor punishable under this act, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of 16 years, with or without whipping.

Punishment for larceny, after conviction of an indictable misdemeanor under this act.

9. Whosoever shall commit the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been twice summarily convicted of any of the offences punishable upon summary conviction, under the provisions contained in 7 & 8 Geo. 4. c. 29., or 7 & 8 Geo. 4. c. 30., or 9 Geo. 4. c. 55., or 9 Geo. 4. c. 56., or 10 & 11 Vict. c. 82., or 11 & 12 Vict. c. 59., or 14 & 15 Vict. c. 92., ss. 3, 4, 5, 6., or this act, or 24 & 25 Vict. c. 97., (whether each of the convictions shall have been in respect of an offence of the same description or not; and whether such convictions or either of them shall have been or shall be before or after the passing of this act,) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Punishment for larceny, after two summary convictions.

As to larceny of cattle or other animals :

10. Whosoever shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or

Stealing horses, cows, sheep, &c.

without hard labour, and with or without solitary confinement.

Killing animals with intent to steal the carcase, &c.

11. Whosoever shall wilfully kill any animal, with intent to steal the carcase, skin, or any part of the animal so killed, shall be guilty of felony, and being convicted thereof shall be liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to felony.

Stealing deer in an unclosed part of a forest.

12. Whosoever shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the unclosed part of any forest, chase, or purlieu, shall for every such offence, on conviction thereof before a justice, pay such sum, not exceeding £50, as to the justice shall seem meet ;

Second offence.

and whosoever having been previously convicted of any offence relating to deer, for which a pecuniary penalty shall have been imposed by this or by any former act of parliament, shall afterwards commit any of the offences hereinbefore enumerated, whether such second offence be of the same description as the first or not, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Stealing deer in any inclosed ground.

13. Whosoever shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the inclosed part of any forest, chase, or purlieu, or in any inclosed land where deer shall be usually kept, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Suspected persons found in possession of venison, &c., and not satisfactorily accounting for it.

14. If any deer, or the head, skin, or other part thereof, or any snare or engine for the taking of deer, shall be found in the possession of any person or on the premises of any person with his knowledge, and such person, being taken, or summoned before a justice, shall not satisfy the justice that he came lawfully by such deer, or the head, skin, or other part thereof, or had a lawful occasion for such snare or engine, and did not keep the same for any unlawful

purpose, he shall, on conviction by the justice, pay any sum not exceeding £20 ;

and if any such person shall not under the said provisions be liable to conviction, then, for the discovery of the party who actually killed or stole such deer, the justice at his discretion, as the evidence given and the circumstances of the case shall require, may summon before him every person through whose hands such deer, or the head, skin, or other part thereof, shall appear to have passed ; and if the person from whom the same shall have been first received, or who shall have had possession thereof, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction by the justice, be liable to the payment of such sum of money as is herein-before last mentioned.

See also 2 & 3 Vict. c. 71. s. 26., ante, p. 46.

In case they cannot be convicted, how the justice may proceed.

15. Whosoever shall unlawfully and wilfully set or use any snare or engine whatsoever, for the purpose of taking or killing deer, in any part of any forest, chase, or purlieu, whether such part be inclosed or not, or in any fence or bank dividing the same from any land adjoining, or in any inclosed land where deer shall be usually kept, or shall unlawfully and wilfully destroy any part of the fence of any land where any deer shall be then kept, shall, on conviction thereof before a justice, pay such sum of money not exceeding £20, as to the justice shall seem meet.

Setting engines for taking deer, or pulling down park fences.

16. If any person shall enter into any forest, chase, or purlieu, whether inclosed or not, or into any inclosed land where deer shall be usually kept, with intent unlawfully to hunt, course, wound, kill, snare, or carry away any deer, every person intrusted with the care of such deer, and any of his assistants, whether in his presence or not, may demand from every such offender any gun, fire arms, snare, or engine in his possession, and any dog there brought for hunting, coursing, or killing deer, and in case such offender shall not immediately deliver up the same, may seize and take the same from him in any of those respective places, or, upon pursuit made, in any other place to which he may have escaped therefrom, for the use of the owner of the deer ;

Deerkeepers, &c. may seize the guns, &c. of offenders who, on demand, do not deliver up the same.

and if any such offender shall unlawfully beat or wound any person intrusted with the care of the deer, or any of his assistants, in the execution of any of the powers given by this act, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding

Resistance to keepers, &c. in the execution of their duty.

two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Killing, &c. 17. Whosoever shall unlawfully and wilfully, between
hares or rabbits the expiration of the first hour after sunset and the
in a warren in beginning of the last hour before sunrise, take or kill any
the night time. hare or rabbit in any warren or ground lawfully used for
 the breeding or keeping of hares or rabbits, whether the
 same be inclosed or not, shall be guilty of a misdemeanor ;
The like in the and whosoever shall unlawfully and wilfully, between the
daytime. beginning of the last hour before sunrise and the expiration
 of the first hour after sunset, take or kill any hare or
 rabbit in any such warren or ground, or shall at any time
 set or use therein any snare or engine for the taking of
 hares or rabbits, shall, on conviction thereof before a justice,
 pay such sum of money, not exceeding £5, as to the justice
Exception. shall seem meet ; provided that nothing in this section
 contained shall affect any person taking or killing in the
 daytime any rabbits on any sea bank or river bank in the
 county of Lincoln, so far as the tide shall extend, or within
 one furlong of such bank.

See also 9 Geo. 4. c. 69., ante, p. 331.

Stealing dogs. 18. Whosoever shall steal any dog shall, on conviction
 thereof before two justices, either be committed to the
 common gaol or house of correction, there to be imprisoned,
 or to be imprisoned and kept to hard labour, for any term
 not exceeding six months, or shall pay, over and above the
 value of the said dog, such sum of money, not exceeding
 £20, as to the said justices shall seem meet ;

Second offence. and whosoever having been convicted of any such offence,
 either against this or any former act of parliament, shall after-
 wards steal any dog, shall be guilty of a misdemeanor, and
 being convicted thereof shall be liable, at the discretion of
 the court, to be imprisoned for any term not exceeding
 18 months, with or without hard labour.

See 2 & 3 Vict. c. 71. s. 14, ante, p. 43.

Possession of 19. Whosoever shall unlawfully have in his possession or
stolen dogs. on his premises any stolen dog, or the skin of any stolen
 dog, knowing such dog to have been stolen or such skin
 to be the skin of a stolen dog, shall, on conviction thereof
 before two justices, be liable to pay such sum of money, not
 exceeding £20, as to such justices shall seem meet ;

Second offence. and whosoever, having been convicted of any such offence,
 either against this or any former act of parliament, shall

afterwards be guilty of any such offence as in this section before mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding 18 months, with or without hard labour.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

20. Whosoever shall corruptly take any money or reward directly or indirectly, under pretence or upon account of aiding any person to recover any dog which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding 18 months, with or without hard labour.

Taking money
to restore dogs.

21. Whosoever shall steal any bird, beast, or other animal ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law, or shall wilfully kill any such bird, beast, or animal, with intent to steal the same or any part thereof, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay over and above the value of the bird, beast, or other animal, such sum of money, not exceeding £20, as to the justice shall seem meet ;

Stealing beasts
or birds ordi-
narily kept in
confinement,
and not the
subjects of
larceny.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any offence in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding 12 months as the convicting justice shall think fit.

Second offence.

22. If any such bird, or any of the plumage thereof, or any dog, or any such beast, or the skin thereof, or any such animal, or any part thereof, shall be found in the possession or on the premises of any person, any justice may restore the same respectively to the owner thereof ;

Possession of
stolen beasts,
&c.

and any person in whose possession or on whose premises such bird or the plumage thereof, or such beast or the skin thereof, or such animal or any part thereof, shall

two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Killing, &c.
hares or rabbits
in a warren in
the night time.

**The like in the
daytime.**

Exception.

17. Whosoever shall unlawfully and wilfully, between the expiration of the first hour after sunset and the beginning of the last hour before sunrise, take or kill any hare or rabbit in any warren or ground lawfully used for the breeding or keeping of hares or rabbits, whether the same be inclosed or not, shall be guilty of a misdemeanor; and whosoever shall unlawfully and wilfully, between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, take or kill any hare or rabbit in any such warren or ground, or shall at any time set or use therein any snare or engine for the taking of hares or rabbits, shall, on conviction thereof before a justice, pay such sum of money, not exceeding £5, as to the justice shall seem meet; provided that nothing in this section contained shall affect any person taking or killing in the daytime any rabbits on any sea bank or river bank in the county of Lincoln, so far as the tide shall extend, or within one furlong of such bank.

See also 9 Geo. 4. c. 69., ante, p. 331.

Stealing dogs.

Second offence.

**Possession of
stolen dogs.**

Second offence.

18. Whosoever shall steal any dog shall, on conviction thereof before two justices, either be committed to the common gaol or house of correction, there to be imprisoned, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or shall pay, over and above the value of the said dog, such sum of money, not exceeding £20, as to the said justices shall seem meet;

and whosoever having been convicted of any such offence, either against this or any former act of parliament, shall afterwards steal any dog, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding 18 months, with or without hard labour.

See 2 & 3 Vict. c. 71. s. 14, ante, p. 43.

19. Whosoever shall unlawfully have in his possession or on his premises any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen or such skin to be the skin of a stolen dog, shall, on conviction thereof before two justices, be liable to pay such sum of money, not exceeding £20, as to such justices shall seem meet;

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall

afterwards be guilty of any such offence as in this section before mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding 18 months, with or without hard labour.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 48.

20. Whosoever shall corruptly take any money or reward directly or indirectly, under pretence or upon account of aiding any person to recover any dog which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding 18 months, with or without hard labour.

Taking money
to restore dogs.

21. Whosoever shall steal any bird, beast, or other animal ordinarily kept in a state of confinement or for any domestic purpose, not being the subject of larceny at common law, or shall wilfully kill any such bird, beast, or animal, with intent to steal the same or any part thereof, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding six months, or else shall forfeit and pay over and above the value of the bird, beast, or other animal, such sum of money, not exceeding £20, as to the justice shall seem meet;

Stealing beasts
or birds ordi-
narily kept in
confinement,
and not the
subjects of
larceny.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any offence in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding 12 months as the convicting justice shall think fit.

Second offence.

22. If any such bird, or any of the plumage thereof, or any dog, or any such beast, or the skin thereof, or any such animal, or any part thereof, shall be found in the possession or on the premises of any person, any justice may restore the same respectively to the owner thereof;

Possession of
stolen beasts,
&c.

and any person in whose possession or on whose premises such bird or the plumage thereof, or such beast or the skin thereof, or such animal or any part thereof, shall

be so found, (such person knowing that the bird, beast, or animal has been stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen beast, or that the part is a part of a stolen animal,) shall, on conviction before a justice, be liable for the first offence to such forfeiture, and for every subsequent offence to such punishment, as any person convicted of stealing any beast or bird is made liable to by the last preceding section.

See also 2 & 3 Vict. c. 71. ss. 24, 27., ante, pp. 46, 47.

Killing pigeons.

23. Whosoever shall unlawfully and wilfully kill, wound, or take any house dove or pigeon under such circumstances as shall not amount to larceny at common law, shall, on conviction before a justice, pay, over and above the value of the bird, any sum not exceeding £2.

Taking fish in any water situate in land belonging to a dwelling house;

in any private fishery elsewhere.

24. Whosoever shall unlawfully and wilfully take or destroy any fish in any water which shall run through or be in any land adjoining or belonging to the dwelling house of any person being the owner of such water, or having a right of fishery therein, shall be guilty of a misdemeanor ;

and whosoever shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being such as herein-before mentioned, but which shall be private property, or in which there shall be any private right of fishery, shall, on conviction thereof before a justice, pay, over and above the value of the fish taken or destroyed (if any), such sum of money, not exceeding £5, as to the justice shall seem meet ;

Provision respecting anglers.

Provided that nothing herein-before contained shall extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset ; but whosoever shall by angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any such water as first mentioned, shall, on conviction before a justice, pay any sum not exceeding £5, and if in any such water as last mentioned, he shall, on the like conviction, pay any sum not exceeding £2 as to the justice shall seem meet ;

Provision as to boundaries of parishes.

and if the boundary of any parish, township, or vill shall happen to be in or by the side of any such water as is in this section before mentioned, it shall be sufficient to prove that the offence was committed either in the parish, township, or vill named in the indictment or information, or in any parish, township, or vill adjoining thereto.

25. If any person shall at any time be found fishing against the provisions of this act, the owner of the ground, water, or fishery where such offender shall be so found, his servant, or any person authorized by him, may demand from such offender any rod, line, hook, net, or other implement for taking or destroying fish which shall then be in his possession, and in case such offender shall not immediately deliver up the same, may seize and take the same from him for the use of such owner :

The tackle of
fishers may be
seized.

Provided that any person angling against the provisions of this act, between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, from whom any implement used by anglers shall be taken, or by whom the same shall be so delivered up, shall by the taking or delivering thereof be exempted from the payment of any damages or penalty for such angling.

Angler, on
seizure of his
tackle, exempt
from penalty.

26. Whosoever shall steal any oysters or oyster brood from any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny ;

Stealing or
dredging for
oysters in
oyster fisheries.

and whosoever shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall unlawfully and wilfully, with any net, instrument, or engine, drag upon the ground or soil of any such fishery, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding three months, with or without hard labour, and with or without solitary confinement ;

[Form of indictment.]

Provided, that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument, or engine adapted for taking floating fish only.

Provision as
to floating fish.

As to larceny of written instruments :

27. Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, or obliterate the whole or any part of any valuable security, other than a document of title to lands, shall be guilty of felony, of the same nature and in the same degree and punishable in the same manner as if

Stealing, &c.
valuable secu-
rities (not
relating to real
property).

he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Stealing, &c.
deeds, &c.
relating to real
property.

28. Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, obliterate, or conceal, the whole or any part of any document of title to lands, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

[Form of indictment.]

Stealing, &c.
wills or
codicils.

29. Whosoever shall, either during the life of the testator or after his death, steal, or for any fraudulent purpose destroy, cancel, obliterate, or conceal the whole or any part of any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

[Form of indictment.]

Other remedies
not to be
affected.

Provided, that nothing in this or the last preceding section mentioned, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and the last preceding section mentioned, by any evidence whatever, in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act, on oath, in consequence of any compulsory process of any court of law or equity in any action, suit, or proceeding which shall have been bonâ fide instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any

court upon the hearing of any matter in bankruptcy or insolvency.

30. Whosoever shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously cancel, obliterate, injure, or destroy the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever of or belonging to any court of record, or relating to any matter, civil or criminal, begun, depending, or terminated in any such court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order, or decree, or of any original document whatsoever of or belonging to any court of equity, or relating to any cause or matter begun, depending, or terminated in any such court, or of any original document in anywise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any of Her Majesty's castles, palaces, or houses, or in any government or public office, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Stealing, &c.
records or
other legal
documents.

[Form of indictment.]

As to larceny of things attached to or growing on land :

31. Whosoever shall steal, or shall rip, cut, sever, or break with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land being private property, or for a fence to any dwelling house, garden, or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, shall be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny.

Stealing, &c.
metal, glass,
wood, &c. fixed
to building or
anything made
of metal fixed
in land.

And in the case of any such thing fixed in any such square, street, or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Stealing, &c.
trees in plea-
sure grounds of
the value of
£1, or else-
where of the
value of £5.

32. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood respectively growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of £1,) be guilty of felony, and being convicted thereof, shall be liable to be punished as in the case of simple larceny;

and whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood respectively growing elsewhere than in any of the situations in this section before mentioned, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of £5,) be guilty of felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny.

Stealing trees,
shrubs, &c.,
wheresoever
growing, and of
the value of 1s.
at the least,
punishable on
summary con-
viction for first
and second
offence;

33. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of a shilling at the least, shall, on conviction thereof before a justice, pay, over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money not exceeding £5 as to the justice shall seem meet;

and whosoever having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding 12 months as the convicting justice shall think fit;

third offence,
felony.

and whosoever having been twice convicted of any such offence (whether both or either of such convictions shall have taken place before or after the passing of this act), shall afterwards commit any of the offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing, &c.
any live or dead
fence, wooden

34. Whosoever shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead

fence, or any wooden post, pale, wire, or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on conviction thereof before a justice, pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding £5 as to the justice shall seem meet;

fence, stile, or gate.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour, for such term not exceeding 12 months as the convicting justice shall think fit.

Second offence.

35. If the whole or any part of any tree, sapling, or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile, or gate, or any part thereof, being of the value of one shilling at the least, shall be found in the possession of any person, or on the premises of any person, with his knowledge, and such person, being taken or summoned before a justice, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction by the justice, pay, over and above the value of the article or articles so found, any sum not exceeding £2.

Suspected persons in possession of wood, &c. not satisfactorily accounting for it.

See also 2 & 3 Vict. c. 71. s. 24., ante, p. 46.

36. Whosoever shall steal, or shall destroy or damage with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hothouse, greenhouse, or conservatory, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding £20 as to the justice shall seem meet;

Stealing, &c. any fruit or vegetable production in a garden, &c. punishable on summary conviction for first offence;

and whosoever having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any of the offences in this section before mentioned, shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

second offence, felony.

Stealing, &c.
vegetable pro-
ductions not
growing in
gardens, &c.

37. Whosoever shall steal, or shall destroy or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding 20s. as to the justice shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made;

Second offence.

and whosoever, having been convicted of any such offence either against this or any former act of parliament, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour, for such term not exceeding six months as the convicting justice shall think fit.

Stealing, &c.
ore of metal,
coal, &c.

As to larceny from mines :

38. Whosoever shall steal, or sever with intent to steal, the ore of any metal, or any lapis calaminaris, manganese or mundick, or any wad, black cawke, or black lead, or any coal or cannel coal, from any mine, bed, or vein thereof respectively, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Miners re-
moving ore
with intent to
defraud.

39. Whosoever, being employed in or about any mine, shall take, remove, or conceal any ore of any metal, or any lapis calaminaris, manganese, mundick, or other mineral found or being in such mine, with intent to defraud any proprietor of or any adventurer in such mine, or any workman or miner employed therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to larceny from the person, and other like offences :

40. Whosoever shall rob any person, or shall steal any chattel, money, or valuable security from the person of another, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Robbery or stealing from the person.

41. [On trial for robbery, jury may convict of an assault with intent to rob : No subsequent prosecution for such assault.]

42. Whosoever shall assault any person with intent to rob shall be guilty of felony, and being convicted thereof shall (save and except in the cases where a greater punishment is provided by this act) be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Assault with intent to rob.

43. Whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob, any person, or shall, together with one or more other person or persons, rob, or assault with intent to rob, any person, or shall rob any person, and at the time of or immediately before or immediately after such robbery shall wound, beat, strike, or use any other personal violence to any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Robbery or assault by a person armed, or by two or more, or robbery and wounding.

44. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Sending, &c. letter, demanding money, &c., with menaces.

Demanding money, &c. with menaces, or by force, with intent to steal.

45. Whosoever shall with menaces or by force demand any property, chattel, money, valuable security, or other valuable thing of any person, with intent to steal the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Sending, &c. letter threatening to accuse of crime, with intent to extort.

46. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person of any crime punishable by law with death or penal servitude for not less than seven years, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime as herein-after defined, with a view or intent in any of such cases to extort or gain by means of such letter or writing any [property, chattel, money, valuable security, or other valuable thing, from any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping ;

“ Infamous crime ” defined.

and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat, offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this act.

Accusing or threatening to accuse, with intent to extort.

47. Whosoever shall accuse or threaten to accuse, either the person to whom such accusation or threat shall be made or any other person, of any of the infamous or other crimes lastly herein-before mentioned, with the view or intent in any of the cases last aforesaid to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for

life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping.

48. Whosoever, with intent to defraud or injure any other person, shall, by any unlawful violence to or restraint of, or threat of violence to or restraint of, the person of another, or by accusing or threatening to accuse any person of any treason, felony, or infamous crime as herein-before defined, compel or induce any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company, or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into, or used or dealt with as, a valuable security, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Inducing a person by violence or threats to execute deeds, &c. with intent to defraud.

49. It shall be immaterial whether the menaces or threats herein-before mentioned be of violence, injury, or accusation to be caused or made by the offender or by any other person.

Immaterial from whom the violence, &c. menaced is to proceed.

As to sacrilege, burglary, and housebreaking:

50. Whosoever shall break and enter any church, chapel, meeting house, or other place of divine worship, and commit any felony therein, or being in any church, chapel, meeting house, or other place of divine worship shall commit any felony therein and break out of the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Breaking and entering a church or chapel and committing any felony.

51. Whosoever shall enter the dwelling house of another with intent to commit any felony therein, or being in such dwelling house shall commit any felony therein, and shall

Burglary by breaking out in the night.

in either case break out of the said dwelling house in the night, shall be deemed guilty of burglary.

Punishment for burglary.

52. Whosoever shall be convicted of the crime of burglary shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

What building within the curtilage shall be deemed part of the dwelling house.

53. No building, although within the same curtilage with any dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house for any of the purposes of this act, unless there shall be a communication between such building and dwelling house, either immediate, or by means of a covered and enclosed passage, leading from the one to the other.

Entering a dwelling house in the night with intent to commit any felony.

54. Whosoever shall enter any dwelling house in the night, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Breaking into any building within the curtilage but not part of the dwelling house, and committing any felony, &c.

55. Whosoever shall break and enter any building, and commit any felony therein, such building being within the curtilage of a dwelling house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, or being in any such building shall commit any felony therein, and break out of the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Breaking into any house, shop, warehouse, &c., and committing any felony. &c.

56. Whosoever shall break and enter any dwelling house, schoolhouse, shop, warehouse, or counting-house, and commit any felony therein, or, being in any dwelling house, schoolhouse, shop, warehouse, or counting-house, shall commit any felony therein, and break out of the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less

than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

57. Whosoever shall break and enter any dwelling house, church, chapel, meeting house, or other place of divine worship, or any building within the curtilage, schoolhouse, shop, warehouse, or counting-house, with intent to commit any felony therein, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Housebreak-
ing, &c. with
intent to com-
mit any felony.

58. Whosoever shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling house or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person) any picklock, key, crow, jack, bit, or other implement of housebreaking, or shall be found by night having his face blackened or otherwise disguised with intent to commit any felony, or shall be found by night in any dwelling house or other building whatsoever with intent to commit any felony therein shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Being armed
with intent to
break and
enter any
building in the
night, &c.

See also 5 Geo. 4. c. 83. s. 4., ante, p. 123.

59. Whosoever shall be convicted of any such misdemeanor as in the last preceding section mentioned, committed after a previous conviction, either for felony or such misdemeanor, shall on such subsequent conviction be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 10 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

The like, after
a previous
conviction for
felony, &c.

As to larceny in the house:

60. Whosoever shall steal in any dwelling house any chattel, money or valuable security, to the value in the whole of £5 or more, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the

Stealing in a
dwelling house
to the value of
£5.

court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Stealing in a dwelling house with menaces, inducing bodily fear.

61. Whosoever shall steal any chattel, money, or valuable security in any dwelling house, and shall by any menace or threat put any one being therein in bodily fear, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years with or without hard labour, and with or without solitary confinement.

As to larceny in manufactories :

Stealing goods in process of manufacture.

62. Whosoever shall steal, to the value of 10s., any woollen, linen, hempen, or cotton yarn, or any goods or article of silk, woollen, linen, cotton, alpaca, or mohair, or of any one or more of those materials mixed with each other, or mixed with any other material, whilst laid, placed, or exposed, during any stage, process, or progress of manufacture, in any building, field, or other place, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to larceny in ships, wharfs, &c. :

Stealing from ships, docks, wharfs, &c.

63. Whosoever shall steal any goods or merchandise in any vessel, barge, or boat of any description whatsoever in any haven, or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river, or canal, or shall steal any goods or merchandise from any dock, wharf, or quay adjacent to any such haven, port, river, canal, creek, or basin, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

64. Whosoever shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and the offender may be indicted and tried either in the county or place in which the offence shall have been committed or in any county or place next adjoining.

Stealing from ship in distress or wrecked.

Venue.

65. If any goods, merchandise, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, shall be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a justice, shall not satisfy the justice that he came lawfully by the same, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender shall, on conviction of such offence before the justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall pay, over and above the value of the goods, merchandise, or articles, such sum of money not exceeding £20 as to the justice shall seem meet.

Persons in possession of shipwrecked goods, not giving a satisfactory account.

See also 2 & 3 Vict. c. 71. ss. 24, 27., ante, pp. 46, 47.

66. If any person shall offer or expose for sale any goods, merchandise, or articles whatsoever, which shall have been unlawfully taken, or shall be reasonably suspected so to have been taken from any ship or vessel in distress, or wrecked, stranded, or cast on shore, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice; and if the person who shall have offered or exposed the same for sale, being summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods, merchandise, or articles, then the same shall, by order of the justice, be forthwith delivered over to or for

Shipwrecked goods offered for sale may be seized, &c.

the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the offender shall, on conviction of such offence by the justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding six months, or else pay, over and above the value of the goods, merchandise, or articles, such sum of money not exceeding £20 as to the justice shall seem meet.

See also 2 & 3 Vict. c. 71. ss. 24, 27., ante, pp. 46, 47.

As to larceny or embezzlement by clerks, servants, or persons in the public service :

Larceny by
clerks or
servants.

67. Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master or employer, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of 16 years, with or without whipping.

Embezzlement
by clerks or
servants.

68. Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money, or valuable security which shall be delivered to or received or taken into possession by him for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk, servant, or other person so employed, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Larceny by
persons in the
Queen's service.

69. Whosoever, being employed in the public service of Her Majesty, or being a constable or other person employed in the police of any county, city, borough, district, or place

whatsoever, shall steal any chattel, money, or valuable security belonging to or in the possession or power of Her Majesty, or intrusted to or received or taken into possession by him by virtue of his employment, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

70. Whosoever, being employed in the public service of Her Majesty, or being a constable or other person employed in the police of any county, city, borough, district, or place whatsoever, and intrusted by virtue of such employment with the receipt, custody, management, or control of any chattel, money, or valuable security, shall embezzle any chattel, money, or valuable security which shall be intrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever except for the public service, shall be deemed to have feloniously stolen the same from Her Majesty, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour ;

Embezzlement by persons in the Queen's service, or by the police.

and every offender against this or the last preceding section may be dealt with, indicted, tried, and punished either in the county or place in which he shall be apprehended or be in custody, or in which he shall have committed the offence ;

Venue as to offences in this and last preceding section.

and in every case of larceny, embezzlement, or fraudulent application or disposition of any chattel, money, or valuable security in this and the last preceding section mentioned, it shall be lawful in the warrant of commitment by the justice before whom the offender shall be charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money, or valuable security in Her Majesty.

Form of warrant of commitment and indictment as to such offences.

71. For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition herein-before mentioned, it shall be lawful to charge in the indictment and proceed against the

Distinct acts of embezzlement may be charged in the same indictment.

offender for any number of distinct arts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty or against the same master or employer, within the space of six months from the first to the last of such acts; and in every such indictment where the offence shall relate to any money or any valuable security it shall be sufficient to allege the embezzlement, or fraudulent application or disposition, to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

Person indicted for embezzlement as a clerk, &c. not to be acquitted if the offence turn out to be larceny, and vice versa.

72. If upon the trial of any person indicted for embezzlement, or fraudulent application or disposition as aforesaid, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, or fraudulent application or disposition, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, or as a person employed in the public service, or in the police, as the case may be; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny;

and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, or fraudulent application or disposition as aforesaid, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, or fraudulent application or disposition, as the case may be, and thereupon such person shall be

liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, fraudulent application or disposition ;

and no person so tried for embezzlement, fraudulent application or disposition, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement upon the same facts.

73. Whosoever, being an officer or servant of the governor and company of the Bank of England or of the Bank of Ireland, and being intrusted with any bond, deed, note, bill, dividend warrant, or warrant for payment of any annuity or interest, or money, or with any security, money, or other effects of or belonging to the said governor and company, or having any bond, deed, note, bill, dividend warrant, or warrant for payment of any annuity or interest, or money, or any security, money, or other effects of any other person, body politic or corporate, lodged or deposited with the said governor and company, or with him as an officer or servant of the said governor and company, shall secrete, embezzle, or run away with any such bond, deed, note, bill, dividend or other warrant, security, money, or other effects as aforesaid, or any part thereof, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Embezzlement
by officers of
the Bank of
England or
Ireland.

As to larceny by tenants or lodgers :

74. Whosoever shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whether the contract shall have been entered into by him or her or by her husband, or by any person on behalf of him or her or her husband, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of 16 years, with or without whipping, and in case the value of such chattel or fixture shall exceed the sum of £5, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and

Tenants or
lodgers stealing
chattel or fix-
ture let to hire
with house or
lodgings.

with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

[Form of indictment.]

As to frauds by agents, bankers, or factors :

Agent, banker,
&c. embezzling
money or sell-
ing securities,
&c. intrusted to
him;

75. Whosoever, having been intrusted, either solely, or jointly with any other person, as a banker, merchant, broker, attorney, or other agent, with any money or security for the payment of money, with any direction in writing to apply, pay, or deliver such money or security or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose, or to any person specified in such direction, shall, in violation of good faith, and contrary to the terms of such direction, in anywise convert to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such money, security, or proceeds, or any part thereof respectively;

and whosoever, having been intrusted, either solely, or jointly with any other person, as a banker, merchant, broker, attorney, or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom, or any part thereof, or of any foreign state, or in any stock or fund of any body corporate, company, or society, for safe custody or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, shall, in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney shall have been intrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof,

Punishment.

shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement ;

Not to affect
trustees or
mortgagees ;

but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or per-

sonal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney, or other agent, from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession upon which he shall have any lien, claim, or demand entitling him by law so to do, unless such sale, transfer, or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite for satisfying such lien, claim, or demand.

nor bankers, &c.
receiving
money due on
securities;

or disposing of
securities on
which they
have a lien.

76. Whosoever, being a banker, merchant, broker, attorney, or agent, and being intrusted, either solely, or jointly with any other person, with the property of any other person for safe custody, shall, with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned.

Bankers, &c.
fraudulently
selling, &c.
property in-
trusted to their
care.

77. Whosoever, being intrusted, either solely, or jointly with any other person, with any power of attorney for the sale or transfer of any property, shall fraudulently sell or transfer or otherwise convert the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned.

Persons under
powers of
attorney frau-
dulently selling
property.

78. Whosoever, being a factor or agent intrusted, either solely, or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods, shall, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in

Factors or
agents obtain-
ing advances
on the property
of their prin-
cipals.

violation of good faith, make any consignment, deposit, transfer, or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge, lien, or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer, or delivery, or intended to be thereafter borrowed or received, or shall, contrary to or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accept any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer, or deliver any such goods or document of title, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned :

Clerks wilfully assisting.

and every clerk or other person who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer, or delivery, or in accepting or procuring such advance as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the same punishments ;

Cases excepted where the pledge does not exceed the amount of their lien.

Provided, that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring, or delivering any such goods or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, deposit, transfer, or delivery was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

Definition of certain terms as to factors or agents :
"intrusted;"

79. Any factor or agent intrusted as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title ; and every contract pledging or giving a lien upon such document of title as aforesaid shall be deemed to be a pledge of and lien upon the goods to which the same relates ; and such factor or agent shall be deemed to be

"pledge;"

"possessed;"

possessed of such goods or document, whether the same shall be in his actual custody, or shall be held by any other person subject to his control, or for him or on his behalf; and where any loan or advance shall be *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer, or deliver such goods or documents* of title, and such goods or document of title shall actually be received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title within the meaning of the last preceding section, though such goods or document of title shall not actually be received by the person making such loan or advance till the period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section; and a factor or agent in possession as aforesaid of such goods or document shall be taken, for the purposes of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

"loan or advance on security of goods, &c.:"

* Sic.

"contract or agreement :"

"advance:"

Possession to be evidence of being intrusted.

80. Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise dispose of or destroy such property or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last-mentioned :

Trustees fraudulently disposing of property, guilty of a misdemeanor.

Provided that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of Her Majesty's Attorney General, or, in case that office be vacant, of Her Majesty's Solicitor General :

No prosecution shall be commenced without the sanction of some judge or the attorney general.

Provided also, that where any civil proceeding shall have been taken against any person to whom the provisions of

this section may apply, no person who shall have taken such civil proceeding shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

Directors, &c.
of any body
corporate or
public com-
pany fraudu-
lently appro-
priating pro-
perty;

81. Whosoever, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company, any of the property of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned.

or keeping
fraudulent
accounts;

82. Whosoever, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the property of such body corporate or public company otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award as herein-before last mentioned.

or wilfully
destroying
books, &c.;

83. Whosoever, being a director, manager, public officer, or member of any body corporate or public company, shall, with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing, or valuable security belonging to the body corporate or public company, or make or concur in the making of any false entry, or omit or concur in omitting any material particular, in any book of account or other document, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award, as herein-before last mentioned.

or publishing
fraudulent
statements.

84. Whosoever, being a director, manager, or public officer of any body corporate or public company, shall make circulate, or publish, or concur in making, circulating, or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor

of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to any of the punishments which the court may award, as herein-before last mentioned.

85. Nothing in any of the last 10 preceding sections of this act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency; and no person shall be liable to be convicted of any of the misdemeanors in any of the said sections mentioned by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit, or proceeding which shall have been bonâ fide instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency.

No person to be exempt from answering questions in any court, but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

86. Nothing in any of the last 11 preceding sections of this act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under any of the said sections, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

No remedy at law or in equity shall be affected.

Convictions shall not be received in evidence in civil suits.

87. No misdemeanor against any of the last 12 preceding sections of this act shall be prosecuted or tried at any court of general or quarter sessions of the peace.

Certain misdemeanors not triable at sessions.

As to obtaining money, &c. by false pretences :

88. Whosoever shall by any false pretence obtain from any other person any chattel, money, or valuable security,

Obtaining money, &c. by false pretence.

with intent to defraud, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement :

[No acquittal on indictment for such misdemeanor because the offence amounts to larceny. Form of indictment and evidence.]

Last preceding section to extend to causing money, &c. to be paid, &c. to a third person.

89. Whosoever shall by any false pretence cause or procure any money to be paid, or any chattel or valuable security to be delivered, to any other person, for the use or benefit or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel, or valuable security within the meaning of the last preceding section.

Inducing persons by false pretence to execute deeds, &c. with intent to defraud.

90. Whosoever, with intent to defraud or injure any other person, shall by any false pretence fraudulently cause or induce any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Receiving, where the principal is guilty of felony.

As to receiving stolen goods :

91. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling, or otherwise disposing whereof shall amount to a felony, either at common law or by virtue of this act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed of, shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice ; and every such receiver, howsoever convicted, shall be liable, at

the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping: Provided, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

92. [Indictment for stealing and receiving.]

93. Whenever any property whatsoever shall have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a felony, either at common law or by virtue of this act, any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding that the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Separate receivers may be included in the same indictment in the absence of the principal.

94. [On an indictment for jointly receiving, persons may be convicted of separately receiving.]

95. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, converting, or disposing whereof is made a misdemeanor by this act, knowing the same to have been unlawfully stolen, taken, obtained, converted, or disposed of, shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver, being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Receiving, where the principal is guilty of a misdemeanor.

96. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted, or disposed of, may, whether charged

Receiver, where triable.

as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, be dealt with, indicted, tried, and punished in any county or place in which he shall have or shall have had any such property in his possession, or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the county or place where he actually received such property.

Receivers of property, where the original offence is punishable on summary conviction.

97. Where the stealing or taking of any property whatsoever is by this act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a justice, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this act made liable.

Principals in the second degree and accessories.

98. In case of every felony punishable under this act every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable ;

and every accessory after the fact to any felony punishable under this act (except only a receiver of stolen property) shall, on conviction, be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement ;

Abettors in misdemeanors.

and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this act shall be liable to be indicted and punished as a principal offender.

Abettors in offences punishable on summary conviction.

99. Whosoever shall aid, abet, counsel, or procure the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this act made liable.

As to restitution and recovery of stolen property :

100. If any person guilty of any such felony or misdemeanor as is mentioned in this act, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, shall be indicted for such offence, by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case in this section aforesaid the court before whom any person shall be tried for any such felony or misdemeanor shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner: Provided that if it shall appear before any award or order made that any valuable security shall have been bonâ fide paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been bonâ fide taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, in such case the court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods for any misdemeanor against this act.

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

101. Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever which shall by any felony or misdemeanor have been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, as in this act before mentioned, shall (unless he shall have used all due diligence to cause the offender to be brought to trial for the same) be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 18* years, with or without whipping.

Taking reward for helping to the recovery of stolen property without bringing the offender to trial.

* S.c.

as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, be dealt with, indicted, tried, and punished in any county or place in which he shall have or shall have had any such property in his possession, or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the county or place where he actually received such property.

Receivers of property, where the original offence is punishable on summary conviction.

97. Where the stealing or taking of any property whatsoever is by this act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a justice, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this act made liable.

Principals in the second degree and accessories.

98. In case of every felony punishable under this act every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable ;

and every accessory after the fact to any felony punishable under this act (except only a receiver of stolen property) shall, on conviction, be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement ;

Abettors in misdemeanors.

and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this act shall be liable to be indicted and punished as a principal offender.

Abettors in offences punishable on summary conviction.

99. Whosoever shall aid, abet, counsel, or procure the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this act made liable.

As to restitution and recovery of stolen property :

100. If any person guilty of any such felony or misdemeanor as is mentioned in this act, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, shall be indicted for such offence, by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case in this section aforesaid the court before whom any person shall be tried for any such felony or misdemeanor shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner : Provided that if it shall appear before any award or order made that any valuable security shall have been bonâ fide paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been bonâ fide taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, in such case the court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods for any misdemeanor against this act.

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

101. Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever which shall by any felony or misdemeanor have been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, as in this act before mentioned, shall (unless he shall have used all due diligence to cause the offender to be brought to trial for the same) be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 18* years, with or without whipping.

Taking reward for helping to the recovery of stolen property without bringing the offender to trial.

* Sic.

Advertising
a reward for
the return of
stolen property,
&c.

102. Whosoever shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost the money so paid or advanced, or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of £50 for every such offence to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

As to apprehension of offenders, and other proceedings:

A person in the
act of committing
any offence
may be apprehended
without a warrant.

103. Any person found committing any offence punishable, either upon indictment or upon summary conviction, by virtue of this act, except only the offence of angling in the daytime, may be immediately apprehended without a warrant by any person, and forthwith taken, together with such property, if any, before some neighbouring justice, to be dealt with according to law;

A justice, upon
good grounds of
suspicion
proved on oath,
may grant a
search warrant.

and if any credible witness shall prove upon oath before a justice a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon indictment or upon summary conviction by virtue of this act, shall have been committed, the justice may grant a warrant to search for such property as in the case of stolen goods;

Any person to
whom stolen
property is
offered may
seize the party
offering it.

and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to take before a justice, the party offering the same, together with such property, to be dealt with according to law.

See also 2 & 3 Vict. c. 47. s. 66., ante, p. 34.; 2 & 3 Vict. c. 71. s. 25., ante, p. 46.; and 39 & 40 Geo. 3. c. 99. s. 10., ante, p. 227.

A person
loitering at
night and sus-

104. Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or

loitering in any highway, yard, or other place, during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony against this act; and shall take such person, as soon as reasonably may be, before a justice, to be dealt with according to law.

pected of any felony against this act, may be apprehended.

See also 2 & 3 Vict. c. 47. s. 64., ante, p. 33.; 5 Geo. 4. c. 83. ss. 4-6., ante, pp. 122-125.

105. [Mode of compelling the appearance of persons punishable on summary conviction.]

See 2 & 3 Vict. c. 71. ss. 19-21., ante, p. 44, 45.

106. Every sum of money which shall be forfeited on any summary conviction for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed in each case by the convicting justice), shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty;

Application of forfeitures and penalties on summary convictions.

and every sum which shall be imposed as a penalty by any justice, whether in addition to such value or amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before justices are to be paid and applied in cases where the statute imposing the same contains no direction for the payment thereof to any person:

Provided that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the value of the property or the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than such value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a justice is herein-before directed to be applied.

Proviso where several persons in commission of same offence.

See s. 120., post, and 2 & 3 Vict. c. 71. s. 47., ante, p. 56., and 11 & 12 Vict. c. 43. ss. 31, 33.

107. [If a person summarily convicted shall not pay, &c., the justice may commit him. Scale of imprisonment.]

See 2 & 3 Vict. c. 71. s. 45., ante, p. 55.

108. Where any person shall be summarily convicted before a justice of any offence against this act, and it shall be a first conviction, the justice may, if he shall so think fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages

Justice may discharge the offender in certain cases.

and costs, or either of them, as shall be ascertained by the justice.

109. [A summary conviction shall be a bar to any other proceeding for the same cause.]

110. [Appeal to general or quarter sessions from summary conviction, where sum adjudged to be paid exceeds £5, or imprisonment adjudged exceeds one month, or the conviction is before one justice only.]

See 2 & 3 Vict. c. 71. s. 50., ante, p. 56.

111. [Conviction, &c. not to be quashed for informality, or removed by certiorari, &c.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

112. [Convictions to be returned to the quarter sessions, and certified copy to be evidence.]

113. [Venue in proceedings against persons acting under this act. Notice of action. General issue, &c.]

See 10 Geo. 4. c. 44. s. 41., ante, p. 39. This enactment is identical with that, except only that this omits the last words "and of the verdict obtained thereupon."

As to other matters :

Stealers of property in one part of United Kingdom who have the same in any other part of United Kingdom may be tried and punished in that part of United Kingdom where they have the property.

114. If any person shall have in his possession in any one part of the United Kingdom any chattel, money, valuable security, or other property whatsoever, which he shall have stolen or otherwise feloniously taken in any other part of the United Kingdom, he may be dealt with, indicted, tried, and punished for larceny or theft in that part of the United Kingdom where he shall so have such property, in the same manner as if he had actually stolen or taken it in that part;

and if any person in any one part of the United Kingdom shall receive or have any chattel, money, valuable security, or other property whatsoever which shall have been stolen or otherwise feloniously taken in any other part of the United Kingdom, such person knowing such property to have been stolen or otherwise feloniously taken, he may be dealt with, indicted, tried, and punished for such offence in that part of the United Kingdom where he shall so receive or have such property, in the same manner as if it had been originally stolen or taken in that part.

Offences committed within the jurisdiction

115. All indictable offences mentioned in this act which shall be committed within the jurisdiction of the Admiralty

of England or Ireland shall be deemed to be offences of the same nature, and liable to the same punishments, as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in which the offender shall be apprehended or be in custody :

of the Admiralty.

[Form of indictment :]

Provided that nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty's land or naval forces.

116. [Form of indictment for a subsequent offence, mode of proceeding on the trial, &c.]

117. Whenever any person shall be convicted of any indictable misdemeanor punishable under this act, the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour ; and in case of any felony punishable under this act the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this act authorized : Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year.

Fine, and sureties for keeping the peace, in what cases.

118. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

Hard labour.

119. Whenever solitary confinement may be awarded for any indictable offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year ; and whenever whipping may be awarded for any indictable offence under this act, the court may sentence the offender to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.

Solitary confinement and whipping.

120. [Summary proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 15 Vict. c. 93.]

except in London and the metropolitan police district.

Provided that nothing in this act contained shall in any manner alter or affect any enactment relating to procedure in the case of any offence punishable on summary conviction within the city of London or the Metropolitan Police District, or the recovery or application of any penalty or forfeiture for any such offence.

The costs of the prosecution of misdemeanors against this act may be allowed.

121. The court before which any indictable misdemeanor against this act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

122. [Act not to extend to Scotland, except as otherwise expressly provided.]

123. [Act to commence on 1st November 1861.]

MALICIOUS INJURIES TO PROPERTY (CONSOLIDATION AND AMENDMENT OF STATUTE LAW).

24 & 25 VICT. c. 97.

Injuries by fire to buildings, and goods therein.

Setting fire to a church or chapel.

1. Whosoever shall unlawfully and maliciously set fire to any church, chapel, meeting house, or other place of divine worship, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting fire to a dwelling house any person being therein.

2. Whosoever shall unlawfully and maliciously set fire to any dwelling house, any person being therein, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

3. Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, storehouse, granary, hovel, shed, or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, whether the same shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting fire to a house, outhouse, manufactory, farm building, &c.

4. Whosoever shall unlawfully and maliciously set fire to any station, engine house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping.

Setting fire to any railway station, &c.

5. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping.

Setting fire to any public building.

6. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be

Setting fire to other buildings.

kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping.

Setting fire to goods in any building the setting fire to which is felony.

7. Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in, against, or under any building, under such circumstances that if the building were thereby set fire to the offence would amount to felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and if a male under the age of 16 years, with or without whipping.

Attempting to set fire to buildings:

8. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Injuries by explosive substances to buildings and goods therein.

Destroying or damaging a house with gunpowder, &c. any person being therein.

9. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling house, any person being therein, or of any building whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Attempting to destroy build-

10. Whosoever shall unlawfully and maliciously place or throw in, into, upon, under, against, or near any building

any gunpowder or other explosive substance, with intent to destroy or damage any building or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion take place, and whether or not any damage be caused, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Injuries to buildings by rioters, &c.

11. If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force demolish, or pull down or destroy, or begin to demolish, pull down, or destroy, any church, chapel, meeting house, or other place of divine worship, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or belonging to any university, or college or hall of any university, or to any inn of court, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for sinking, working, ventilating, or draining any mine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Rioters demolishing church, building, &c.

12. If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure or damage any such

Rioters injuring church, building, &c.

church, chapel, meeting house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggonway, or trunk, as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if upon the trial of any person for any felony in the last preceding section mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Injuries to buildings by tenants.

Tenants of houses, &c. maliciously injuring them.

13. Whosoever, being possessed of any dwelling house or other building, or part of any dwelling house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish, the same or any part thereof, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling house or building, or part of such dwelling house or building, shall be guilty of a misdemeanor.

See also 2 & 3 Vict. c. 71. s. 38., ante, p. 51.

Injuries to manufactures, machinery, &c.

Destroying goods in process of manufacture, certain machinery, &c.

14. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any goods or articles of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process, or progress of manufacture, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any warp or shute of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or shall unlawfully and maliciously cut, break, or destroy, or damage with intent

to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences in this section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

15. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing, or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in any manufacture whatsoever (except the manufacture of silk, woollen, linen, cotton, hair, mohair, or alpaca goods, or goods of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace), shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying machines in other manufactures, threshing machines, &c.

Injuries to corn, trees, and vegetable productions..

16. Whosoever shall unlawfully and maliciously set fire to any crop of hay, grass, corn, grain, or pulse or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern, wheresoever the same may be growing, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or

Setting fire to crops of corn, &c.

without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting fire to any stack or steer.

17. Whosoever shall unlawfully and maliciously set fire to any stack of corn, grain, pulse, tares, hay, straw, haulm, stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or to any steer of wood or bark, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Attempting to set fire to crops of corn, &c., or to any stack or steer.

18. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any such matter or thing as in either of the last two preceding sections mentioned, under such circumstances that if the same were thereby set fire to the offender would be, under either of such sections, guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying hopbinds.

19. Whosoever shall unlawfully and maliciously cut or otherwise destroy any hopbinds growing on poles in any plantation of hops shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying or damaging trees, shrubs, &c. to the value of more than £1 growing in a pleasure ground, &c.

20. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house, (in case the amount of the

injury done, shall exceed the sum of £1,) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of 16 years, with or without whipping.

21. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing elsewhere than in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining to or belonging to any dwelling house, (in case the amount of injury done shall exceed the sum of £5,) shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of 16 years, with or without whipping.

Destroying or damaging trees, shrubs, &c. to the value of more than £5, growing elsewhere than in a pleasure ground, &c.

22. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of 1s. at the least, shall on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall pay, over and above the amount of the injury done, such sum of money not exceeding £5, as to the justice shall seem meet;

Destroying or damaging trees, &c. wheresoever growing, to the amount of 1s.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding 12 months, as the convicting justice shall think fit;

Second offence.

and whosoever, having been twice convicted of any such offence (whether both or either of such convictions shall have taken place before or after the passing of this act),

Third offence.

shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying
any fruit or
vegetable pro-
duction in a
garden.

23. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production, growing in any garden, orchard, nursery ground, hothouse, greenhouse, or conservatory, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall pay, over and above the amount of the injury done, such sum of money not exceeding £20 as to the said justice shall seem meet;

Second offence.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying, &c.
vegetable pro-
ductions not
growing in
gardens, &c.

24. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, or nursery ground, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall pay, over and above the amount of the injury done, such sum of money not exceeding 20s. as to the justice shall seem meet, and in default of payment thereof, together with the costs, if ordered, shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made;

Second offence.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament,

shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding six months as the convicting justice shall think fit.

Injuries to fences.

25. Whosoever shall unlawfully and maliciously cut, break, throw down, or in anywise destroy any fence of any description whatsoever, or any wall, stile, or gate, or any part thereof respectively, shall, on conviction thereof before a justice, for the first offence pay, over and above the amount of the injury done, such sum of money not exceeding £5 as to the justice shall seem meet;

Destroying,
&c. any fence,
wall, stile, or
gate.

and whosoever, having been convicted of any such offence, either against this or any former act of parliament, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding 12 months as the convicting justice shall think fit.

Second offence.

Injuries to mines.

26. Whosoever shall unlawfully and maliciously set fire to any mine of coal, cannel coal, anthracite, or other mineral fuel, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting fire to
a coal mine.

27. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any mine, under such circumstances that if the mine were thereby set fire to the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Attempting to
set fire to a
mine.

Conveying
water into a
mine, obstruct-
ing the shaft,
&c.

28. Whosoever shall unlawfully and maliciously cause any water to be conveyed or run into any mine, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof, or shall with the like intent unlawfully and maliciously pull down, fill up, or obstruct, or damage with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level, or shaft of or belonging to any mine, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping: Provided that this provision shall not extend to any damage committed underground by any owner of any adjoining mine in working the same, or by any person duly employed in such working.

Damaging
steam engines,
staiths, wag-
gonways,
&c. for work-
ing mines.

29. Whosoever shall unlawfully and maliciously pull down or destroy, or damage with intent to destroy or render useless, any steam engine or other engine for sinking, draining, ventilating, or working, or for in anywise assisting in sinking, draining, ventilating, or working any mine, or any appliance or apparatus in connexion with any such steam or other engine, or any staith, building, or erection used in conducting the business of any mine, or any bridge, waggonway, or trunk for conveying minerals from any mine, whether such engine, staith, building, erection, bridge, waggonway, or trunk be completed or in an unfinished state, or shall unlawfully and maliciously stop, obstruct, or hinder the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine, or to hinder, obstruct, or delay the working thereof, or shall unlawfully and maliciously wholly or partially cut through, sever, break, or unfasten, or damage with intent to destroy or render useless, any rope, chain, or tackle, of whatsoever material the same shall be made, used in any mine, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or the working or business thereof, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to

be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Injuries to sea and river banks, and to works on rivers, canals, &c.

30. Whosoever shall unlawfully and maliciously break down or cut down or otherwise damage or destroy any sea bank or sea wall, or the bank, dam, or wall of or belonging to any river, canal, drain, reservoir, pool, or marsh, whereby any land or building shall be or shall be in danger of being overflowed or damaged, or shall unlawfully and maliciously throw, break, or cut down, level, undermine, or otherwise destroy, any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, watercourse, or other work belonging to any port, harbour, dock, or reservoir, or on or belonging to any navigable river or canal, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying any sea bank or wall on any canal.

31. Whosoever shall unlawfully and maliciously cut off, draw up, or remove any piles, chalk, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, or shall unlawfully and maliciously open or draw up any floodgate or sluice, or do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Removing the piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river or canal.

Injuries to ponds.

32. Whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam, flood-

Breaking down the dam of a fishery, &c.

milldam, or
poisoning fish.

gate, or sluice of any fish pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be or that may thereafter be put therein, or shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam or floodgate of any mill pond, reservoir, or pool, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Injuries to bridges, viaducts, and toll bars.

Injury to a
public bridge,
&c.

33. Whosoever shall unlawfully and maliciously pull or throw down or in anywise destroy any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct any highway, railway, or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Destroying a
turnpike gate,
toll house, &c.

34. Whosoever shall unlawfully and maliciously throw down, level, or otherwise destroy, in whole or in part, any turnpike gate or toll bar, or any wall, chain, rail, post, bar, or other fence belonging to any turnpike gate or toll bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any act of parliament relating thereto, or any house, building, or weighing engine erected for the better collection, ascertainment, or security of any such toll, shall be guilty of a misdemeanor.

Injuries to railway carriages and telegraphs.

35. Whosoever shall unlawfully and maliciously put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16, with or without whipping.

Placing wood, &c. on railway with intent to obstruct or overthrow any engine, &c.

36. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Obstructing engines or carriages on railways.

37. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour :

Injuries to electric or magnetic telegraphs.

Provided that if it shall appear to any justice, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, at

the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall pay such sum of money not exceeding £10 as to the justice shall seem meet.

Attempt to
injure such
telegraphs.

38. Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall pay such sum of money not exceeding £10 as to the justice shall seem meet.

Injuries to works of art.

Destroying or
damaging
works of art in
museums,
churches, &c.,
or in public
places.

39. Whosoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, print, statue, bust, or vase, or any other article or thing kept for the purposes of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof or by the payment of money before entering the same, or any picture, statue, monument, or other memorial of the dead, painted glass, or other ornament or work of art, in any church, chapel, meeting house, or other place of divine worship, or in any building belonging to the Queen, or to any county, riding, division, city, borough, poor law union, parish, or place, or to any university, or college or hall of any university, or to any inn of court, or in any street, square, churchyard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding six months, with or without hard labour, and if a male under the age of 16 years, with or without whipping; provided that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for the injury so committed.

Injuries to cattle and other animals.

40. Whosoever shall unlawfully and maliciously kill, maim, or wound any cattle shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Killing or maiming cattle.

41. Whosoever shall unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall pay, over and above the amount of injury done, such sum of money not exceeding £20 as to the justice shall seem meet;

Killing or maiming other animals.

and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding 12 months as the convicting justice shall think fit.

Second offence.

42. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting fire to a vessel.

43. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight

Setting fire to vessels to prejudice owner of vessel or goods or underwriters.

thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Attempting to
set fire to a
vessel.

44. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Placing gun-
powder, &c.
near a vessel,
with intent to
damage it.

45. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, shall, whether or not any explosion take place, and whether or not any injury be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Damaging
vessels other-
wise than by
fire.

46. Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

47. Whosoever shall unlawfully mask, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is herein-before provided, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Exhibiting
false signals,
&c.

48. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal, any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen or the purpose of navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Removing or
concealing
buoys and other
sea marks.

See also 19 & 20 Vict. c. 75., ante, p. 394.

49. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Destroying
wrecks or any
articles belong-
ing thereto.

Sending letters threatening to burn or destroy.

50. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or

Sending letters
threatening to
burn or destroy
houses, build-
ings, ships, &c.

destroy any house, barn, or other building, or any rick or stack of grain, hay, or straw, or other agricultural produce, or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim, or wound any cattle, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 10 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Injuries not before provided for.

Persons committing malicious injuries not before provided for exceeding the amount of £5.

51. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is herein-before provided, the damage, injury, or spoil being to an amount exceeding £5, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour; and in case any such offence shall be committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding five years and not less than three, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Persons committing damage to any property, in any case not previously provided for, may be committed or fined, and compelled by a justice to pay compensation not exceeding £5.

Application of the money awarded.

52. Whosoever shall wilfully or maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is herein-before provided, shall, on conviction thereof before a justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding two months, or else shall pay such sum of money not exceeding £5 as to the justice shall seem meet, and also such further sum of money as shall appear to the justice to be a reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of £5; which last-mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in

the same manner as every penalty imposed by a justice under this act; [and in default of payment offender may be imprisoned, with or without hard labour, for not exceeding two months, unless payment sooner made.]

Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this act had not passed.

Not to extend to certain cases herein named.

53. The provisions in the last preceding section contained shall extend to any person who shall wilfully or maliciously commit any injury to any tree, sapling, shrub, or under-wood for which no punishment is herein-before provided.

Preceding section to extend to trees.

Making gunpowder to commit offences, and searching for the same.

54. Whosoever shall make or manufacture, or knowingly have in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent thereby or by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this act mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Making or having gunpowder, &c. with intent to commit any felony against this act.

55. Any justice of any county or place in which any machine, engine, implement, or thing, or any gunpowder or other explosive, dangerous, or noxious substance, is suspected to be made, kept, or carried for the purpose of being used in committing any of the felonies in this act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching, in the daytime, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel in which the same is suspected to be made, kept, or carried for such purpose as herein-before mentioned; and every person acting in the execution of any such warrant shall have, for seizing, removing to proper places, and detaining every such machine, engine, implement, and thing, and all such

Justices may issue warrants for searching houses, &c. for such gunpowder, &c.

gunpowder, explosive, dangerous, or noxious substances found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offence, and the barrels packages, cases, and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a justice by 23 & 24 Vict. c. 139. (*ante*, p. 383, &c.)

Other matters.

56. [Principals in the second degree and accessories. Abettors in misdemeanors.]

This is substantially the same as s. 98. of c. 96, of the same session, ante, p. 448.

Any person loitering at night, and suspected of any felony against this act, may be apprehended.

57. Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony against this act, and shall take such person as soon as reasonably may be before a justice, to be dealt with according to law.

See also 2 & 3 Vict. c. 47. s. 64., ante, p. 33-4, and 5 Geo. 4. c. 83. ss. 4-6, ante, p. 122-5.

Malice against owner of property unnecessary.

58. Every punishment and forfeiture by this act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Provisions of this act shall apply to persons in possession of the property.

59. Every provision of this act not herein-before so applied shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts herein-before made penal, although the offender shall be in possession of the property against or in respect of which such act shall be done.

60. [Intent to injure or defraud particular persons need not be stated in any indictment or proved.]

Persons in the act of committing any offence may be apprehended without a warrant.

61. Any person found committing any offence against this act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the

owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighbouring justice, to be dealt with according to law.

See also 2 & 3 Vict. c. 47. s. 66., ante, p. 34.

62. [Mode of compelling the appearance of persons punishable on summary conviction.]

See 2 & 3 Vict. c. 71. ss. 19-21., ante, pp. 44, 45.

63. [Abettors in offences punishable on summary conviction.]

This is the same as s. 99. of c. 96., ante, p. 448.

64-79. [Application of forfeitures and penalties upon summary convictions; if a person summarily convicted shall not pay, &c., the justice may commit him; the justice may discharge the offender in certain cases; a summary conviction shall be a bar to any other proceeding for the same cause; appeal from summary conviction; conviction, &c. not to be quashed for informality, &c.; convictions to be returned to the quarter sessions; venue in proceedings against persons acting under this act, notice of action, general issue, &c.; offences committed within the jurisdiction of the Admiralty; fine and sureties for keeping the peace, in what cases; hard labour; solitary confinement and whipping; summary proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 15 Vict. c. 93., except in London and Metropolitan Police District; the costs of the prosecution of misdemeanors against this act may be allowed; act not to extend to Scotland, except as otherwise expressly provided; commencement of act.]

These sections are substantially the same as the corresponding enactments, ss. 106-113. 115. 117-123. of c. 96. of the same session, ante, pp. 451-454.

INDICTABLE OFFENCES BY FORGERY (CONSOLIDATION AND AMENDMENT OF STATUTE LAW).

24 & 25 VICT. c. 98.

As to forging Her Majesty's seals:—

1. Whosoever shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the great seal of the United Kingdom, Her Majesty's privy seal, any

Forging the
great seal,
privy seal, &c.

stock, annuities, or other public funds which now are or hereafter may be transferable at the bank of England or at the bank of Ireland shall be entered and kept, or shall in any manner wilfully falsify any of the accounts of any of such owners in any of the said books, with intent in any of the cases aforesaid to defraud, or shall wilfully make any transfer of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferable at the bank of England or at the bank of Ireland, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Clerks of the bank of England or Ireland making out false dividend warrants.

6. Whosoever, being a clerk, officer, or servant of or other person employed or intrusted by the governor and company of the bank of England or the governor and company of the bank of Ireland, shall knowingly make out or deliver any dividend warrant, or warrant for payment of any annuity, interest, or money payable at the bank of England or Ireland, for a greater or less amount than the person on whose behalf such warrant shall be made out is entitled to, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to forging India bonds:

Forging an East India bond.

7. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bond commonly called an East India bond, or any bond, debenture, or security issued or made under the authority of any act passed or to be passed relating to the East Indies, or any indorsement on or assignment of any such bond, debenture, or security, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to forging exchequer bills, &c. :—

8. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any exchequer bill or exchequer bond or exchequer debenture, or any indorsement on or assignment of any exchequer bill or exchequer bond or exchequer debenture, or any receipt or certificate for interest accruing thereon, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging exchequer bills, bonds, or debentures, &c.

9. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make or cause or procure to be made, or shall aid or assist in making, or shall knowingly have in his custody or possession, any frame, mould, or instrument having therein any words, letters, figures, marks, lines, or devices peculiar to and appearing in the substance of any paper provided or to be provided or used for exchequer bills or exchequer bonds or exchequer debentures, or any machinery for working any threads into the substance of any paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads, or devices, or any plate peculiarly employed for printing such exchequer bills, bonds, or debentures, or any die or seal peculiarly used for preparing any such plate, or for sealing such exchequer bills, bonds, or debentures, or any plate, die, or seal intended to imitate any such plate, die, or seal as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Making plates, &c. in imitation of those used for exchequer bills, &c.

10. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make, or cause or procure to be made, or aid or assist in making, any paper in the substance of which shall appear any words, letters, figures, marks, lines, threads, or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for such exchequer bills, bonds, or debentures, or any part of such words, letters, figures, marks, lines, threads, or other devices, and

Making paper in imitation of that used for exchequer bills, &c.

intended to imitate the same, or shall knowingly have in his custody or possession any paper whatsoever, in the substance whereof shall appear any such words, letters, figures, marks, lines, threads, or devices as aforesaid, or any parts of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate the same, or shall cause or assist in causing any such words, letters, figures, marks, lines, threads, or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads, or other devices, and intended to imitate the same, to appear in the substance of any paper whatever, or shall take or assist in taking any impression of any such plate, die, or seal as in the last preceding section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Having in possession paper, plates, or dies to be used for exchequer bills, &c.

11. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall purchase or receive, or knowingly have in his custody or possession, any paper manufactured and provided by or under the directions of the Commissioners of Inland Revenue or Commissioners of Her Majesty's Treasury, for the purpose of being used as exchequer bills or exchequer bonds or exchequer debentures, before such paper shall have been duly stamped, signed, and issued for public use, or any such plate, die, or seal as in the last two preceding sections mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding three years, with or without hard labour.

As to forging bank notes:—

Forging a bank note, &c.

12. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any note or bill of exchange of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, commonly called a bank note, a bank bill of exchange, or a bank post bill, or any indorsement on or assignment of any bank note, bank bill of exchange, or bank post bill, with intent to defraud; shall be guilty of felony; and being convicted thereof shall be liable, at the discretion of the court,

to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

13. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall purchase or receive from any other person, or have in his custody or possession, any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Purchasing or receiving or having forged bank notes.

As to making and engraving plates, &c. for bank notes, &c. :—

14. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make or use, or knowingly have in his custody or possession, any frame, mould, or instrument for the making of paper with the words "bank of England" or "bank of Ireland" or any part of such words intended to resemble and pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in Roman letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively, or shall make, use, sell; expose to sale, utter, or dispose of, or knowingly have in his custody or possession, any paper whatsoever with the words "bank of England" or "bank of Ireland," or any part of such words intended to resemble and pass for the same, visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in Roman letters, appearing visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used by the

Making or having mould for making paper with the words "bank of England," or "bank of Ireland," or with curved bar lines, &c., or selling, &c. such paper, &c.

governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively, or shall by any art or contrivance cause the words "bank of England" or "bank of Ireland" or any part of such words intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively, to appear visible in the substance of any paper, or shall cause the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in Roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Proviso as to
paper used for
bills of ex-
change, &c.

15. Nothing in the last preceding section contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in guineas, or in a numerical figure or figures denoting the amount thereof in pounds sterling, appearing visible in the substance of the paper upon which the same shall be written or printed, nor shall prevent any person from making, using, or selling any paper having waving or curved lines or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines or bar lines or the watermarks of the paper used by the governor and company of the banks of England and Ireland respectively.

Engraving or
having any
plate, &c. for
making notes
of bank of
England or
Ireland, or
other banks,

16. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood or stone, or other material, any promissory note, bill, of exchange, or bank post bill, or part of a promissory note, bill of exchange, or bank post bill, purporting to be a bank note, bank bill of exchange, or bank post bill of the governor

and company of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, or to be a blank bank note, blank promissory note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or to be a part of a bank note, promissory note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or any name, word, or character resembling or apparently intended to resemble any subscription to any bill of exchange or promissory note issued by the governor and company of the bank of England or the governor and company of the bank of Ireland, or by any such other body corporate, company, or person as aforesaid, or shall use any such plate, wood, stone, or other material, or any other instrument or device, for the making or printing any bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, or knowingly have in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any blank bank note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or part of a bank note, bank bill of exchange, or bank post bill, or any name, word, or character resembling or apparently intended to resemble any such subscription, shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

or uttering or having paper upon which a blank bank note, &c. printed.

17. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood, stone, or other material, any word, number,

Engraving on a plate, &c. any word, number, or device resembling

governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively, or shall by any art or contrivance cause the words "bank of England" or "bank of Ireland" or any part of such words intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used by the governor and company of the banks of England and Ireland respectively for any notes, bills of exchange, or bank post bills of such banks respectively, to appear visible in the substance of any paper, or shall cause the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in Roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Proviso as to paper used for bills of exchange, &c.

15. Nothing in the last preceding section contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in guineas, or in a numerical figure or figures denoting the amount thereof in pounds sterling, appearing visible in the substance of the paper upon which the same shall be written or printed, nor shall prevent any person from making, using, or selling any paper having waving or curved lines or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines or bar lines or the watermarks of the paper used by the governor and company of the banks of England and Ireland respectively.

Engraving or having any plate, &c. for making notes of bank of England or Ireland, or other banks,

16. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood or stone, or other material, any promissory note, bill, of exchange, or bank post bill, or part of a promissory note, bill of exchange, or bank post bill, purporting to be a bank note, bank bill of exchange, or bank post bill of the governor

and company of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, or to be a blank bank note, blank promissory note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or to be a part of a bank note, promissory note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or any name, word, or character resembling or apparently intended to resemble any subscription to any bill of exchange or promissory note issued by the governor and company of the bank of England or the governor and company of the bank of Ireland, or by any such other body corporate, company, or person as aforesaid, or shall use any such plate, wood, stone, or other material, or any other instrument or device, for the making or printing any bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, or knowingly have in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any blank bank note, blank bank bill of exchange, or blank bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or part of a bank note, bank bill of exchange, or bank post bill, or any name, word, or character resembling or apparently intended to resemble any such subscription, shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

or uttering or having paper upon which a blank bank note, &c. printed.

17. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood, stone, or other material, any word, number, Engraving on a plate, &c. any word, number, or device resembling

part of a bank note or bill, or using or having any such plate, &c., or uttering or having any paper on which any such word, &c. is impressed.

figure, device, character, or ornament the impression taken from which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any other body corporate, company, or person carrying on the business of bankers, or shall use, or knowingly have in his custody or possession, any such plate, wood, stone, or other material, or any other instrument or device for the impressing or making upon any paper or other material any word, number, figure, character, or ornament which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill of the governor and company of the bank of England or of the governor and company of the bank of Ireland, or of any such other body corporate, company, or person as aforesaid, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper or other material upon which there shall be an impression of any such matter as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Making or having mould for making paper with the name of any banker, or making or having such paper.

18. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall make or use any frame, mould, or instrument for the manufacture of paper, with the name or firm of any body corporate, company, or person carrying on the business of bankers (other than and accept the banks of England and Ireland respectively) appearing visible in the substance of the paper, or knowingly have in his custody or possession any such frame, mould, or instrument, or make, use, sell, expose to sale, utter, or dispose of, or knowingly have in his custody or possession, any paper in the substance of which the name or firm of any such body corporate, company, or person shall appear visible, or by any art or contrivance cause the name or firm of any such body corporate, company, or person to appear visible in the substance of the paper upon which the same shall be written or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any

term not exceeding two years, with or without hard labour, and with or without solitary confinement.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall engrave or in anywise make upon any plate whatsoever, or upon any wood, stone, or other material, any bill of exchange, promissory note, undertaking, or order for payment of money, or any part of any bill of exchange, promissory note, undertaking, or order for payment of money, in whatsoever language the same may be expressed, and whether the same shall or shall not be or be intended to be under seal, purporting to be the bill, note, undertaking, or order, or part of the bill, note, undertaking, or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons, resident in any country not under the dominion of Her Majesty, or shall use or knowingly have in his custody or possession, any plate, stone, wood, or other material upon which any such foreign bill, note, undertaking, or order, or any part thereof, shall be engraved or made, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any part of any such foreign bill, note, undertaking, or order shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Engraving plates for foreign bills, notes, &c., or using or having such plates, or uttering, &c. paper on which any part of any such bill, note, &c. is printed.

As to forging deeds, wills, bills of exchange, &c. :

20. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any deed, or any bond or writing obligatory, or any assignment at law or in equity of any such bond or writing obligatory, or shall forge any name, handwriting, or signature purporting to be the name, handwriting, or signature of a witness attesting the execution of any deed, bond, or writing obligatory, or shall offer, utter, dispose of, or put off any deed, bond, or writing obligatory having thereon any such forged name, handwriting, or signature, knowing the same to be forged, shall be guilty of felony, and being convicted thereof shall be

Forging deeds, bonds, &c.

liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging wills.

21. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary instrument, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging bills
of exchange or
promissory
notes.

22. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement, or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement or assignment of any such promissory note, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging orders,
receipts, &c.
for money,
goods, &c.

23. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority, or request, or any accountable receipt, acquittance, or receipt for money or for goods, or for any note, bill, or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or

without hard labour, and with or without solitary confinement.

24. Whosoever, with intent to defraud, shall draw, make, sign, accept, or indorse any bill of exchange or promissory note, or any undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or shall offer, utter, dispose of, or put off any such bill, note, undertaking, warrant, order, authority, or request so drawn, made, signed, accepted, or indorsed, by procuration or otherwise, without lawful authority or excuse, as aforesaid, knowing the same to have been so drawn, made, signed, accepted, or indorsed as aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

See 21 & 22 Vict. c. 79. ante, p. 337.

25. Whenever any cheque or draft on any banker shall be crossed with the name of a banker, or with two transverse lines with the words “and company,” or any abbreviation thereof, whosoever shall obliterate, add to, or alter any such crossing, or shall offer, utter, dispose of, or put off any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made, with intent, in any of the cases aforesaid, to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

26. Whosoever shall fraudulently forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions or elsewhere, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two

Making, accepting, &c. any bill, note, &c. by procuration, without lawful authority, or uttering any such bill, note, &c. so made, accepted, &c. with intent to defraud.

Obliterating, &c. crossings on cheques.

Forging debentures.

years, with or without hard labour, and with or without solitary confinement.

As to forging records, process, instruments of evidence, &c. :—

Forging proceedings of courts of record or courts of equity, &c.

27. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, cognovit actionem, or warrant of attorney, or any original document whatsoever of or belonging to any court of record, or any bill, petition, process, notice, rule, answer, pleading, interrogatory, deposition, affidavit, affirmation, report, order, or decree, or any original document whatsoever of or belonging to any court of equity or court of admiralty in England or Ireland, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any court in this section mentioned, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging copies or certificates of records, process of courts not of record, &c., and using forged process.

28. Whosoever, being the clerk of any court, or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, shall utter any false copy or certificate of any record, knowing the same to be false; and whosoever, other than such clerk, officer, or deputy, shall sign or certify any copy or certificate of any record as such clerk, officer, or deputy; and whosoever shall forge or fraudulently alter, or offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or shall offer, utter, dispose of, or put off any copy or certificate of any record having thereon any false or forged name, handwriting, or signature, knowing the same to be false or forged; and whosoever shall forge the seal of any court of record, or shall forge or fraudulently alter any process of any court other than such courts as in the last preceding section mentioned, or shall serve or enforce any forged process of any court whatsoever, knowing the same to be forged, or shall deliver or cause to be delivered to any person any paper falsely purporting to be any such process, or a copy thereof, or to be any judgment, decree, or order

of any court of law or equity, or a copy thereof, knowing the same to be false, or shall act or profess to act under any such false process, knowing the same to be false, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

29. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is or shall be made evidence by any act passed or to be passed, and for which offence no punishment is herein provided, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging instruments made evidence by any act of parliament.

As to forging court rolls :

30. Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any court roll or copy of any court roll, relating to any copyhold or customary estate, with intent to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging court rolls.

As to forging registers of deeds :

31. Whosoever shall forge or fraudulently alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or fraudulently altered, any memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing, made or issued under the provisions of any act passed or hereafter to be passed for or relating to the registry of deeds, or shall forge or counterfeit the seal of or belonging to any office for the registry of deeds, or any stamp or impression of any such seal ; or shall forge any name, handwriting, or signature purporting to be the name, handwriting, or signature of any person to any such

Forgery as to the registry of deeds.

memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing which shall be required or directed to be signed by or by virtue of any act passed or to be passed, or shall offer, utter, dispose of, or put off any such memorial or other writing as in this section before mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting, or signature, knowing the same to be forged, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging orders
of justices,
recognizances,
affidavits, &c.

As to forging orders, &c. of justices of the peace :—

32. Whosoever, with intent to defraud, shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any summons, conviction, order, or warrant of any justice, or any recognizance purporting to have been entered into before any justice, or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation, or solemn declaration, taken or made before any justice, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to forging the name of the accountant general, &c. :—

Forging name
of accountant
general, &c. of
court of Chan-
cery in Eng-
land or Ireland,
or of any judge
of the Landed
Estates Court
in Ireland, &c.

33. Whosoever, with intent to defraud, shall forge or alter any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument, or writing made or purporting or appearing to be made by the accountant general, or any other officer of the court of Chancery in England or Ireland, or by any judge or officer of the Landed Estates court in Ireland, or by any officer of any court in England or Ireland, or by any cashier or other officer or clerk of the governor and company of the bank of England or Ireland, or the name, handwriting, or signature of any such accountant general, judge, cashier, officer, or clerk as aforesaid, or shall offer, utter, dispose of, or put off any such certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument, or writing, knowing the same to be forged or altered, shall be guilty

of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to falsely acknowledging recognizances, &c. :—

34. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall, in the name of any other person, acknowledge any recognizance or bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any court, judge, or other person lawfully authorized in that behalf, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Acknowledg-
ing recogni-
zance, bail,
cognovit, &c.
in the name of
another.

As to forging marriage licences :—

35. Whosoever shall forge or fraudulently alter any licence of or certificate for marriage, or shall offer, utter, dispose of, or put off any such licence or certificate, knowing the same to be forged or fraudulently altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Forging mar-
riage licence or
certificate.

As to forging registers of births, marriages, and deaths :—

36. Whosoever shall unlawfully destroy, deface, or injure, or cause or permit to be destroyed, defaced, or injured, any register of births, baptisms, marriages, deaths, or burials which now is or hereafter shall be by law authorized or required to be kept in England or Ireland, or any part of any such register, or any certified copy of any such register, or any part thereof, or shall forge or fraudulently alter in any such register any entry relating to any birth, baptism, marriage, death, or burial, or any part of any such register, or any certified copy of such register, or of any part thereof, or shall knowingly and unlawfully insert or cause or permit to be inserted in any such register, or in any

Forging
registers of
births, bap-
tisms, mar-
riages, deaths,
or burials, &c.

certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death, or burial, or shall knowingly and unlawfully give any false certificate relating to any birth, baptism, marriage, death, or burial, or shall certify any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract shall be so given, to be false in any material particular, or shall forge or counterfeit the seal of or belonging to any register office or burial board, or shall offer, utter, dispose of, or put off any such register, entry, certified copy, certificate, or seal, knowing the same to be false, forged, or altered, or shall offer, utter, dispose of, or put off any copy of any entry in any such register, knowing such entry to be false, forged, or altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Making false entries in copies of register sent to registrar, &c.

37. Whosoever shall knowingly and wilfully insert or cause or permit to be inserted in any copy of any register directed or required by law to be transmitted to any registrar or other officer any false entry of any matter relating to any baptism, marriage, or burial, or shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid, or shall knowingly and wilfully sign or verify any copy of any register so directed or required to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false, or shall unlawfully destroy, deface, or injure, or shall for any fraudulent purpose take from its place of deposit, or conceal, any such copy of any register, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Demanding, &c. property upon forged instruments.

As to demanding property upon forged instruments:—
38. Whosoever, with intent to defraud, shall demand, receive, or obtain, or cause or procure to be delivered or paid to any person, or endeavour to receive or obtain, or to cause or procure to be delivered or paid to any person, any

chattel, money, security for money, or other property whatsoever, under, upon, or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration shall have been obtained to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

As to other matters:—

39. Where by this or by any other act any person is or shall hereafter be made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such act by any special name or description, and such instrument or writing, however designated, shall be in law a will, testament, codicil, or testamentary writing, or a deed, bond, or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority, or request for the payment of money, or an indorsement on or assignment of an undertaking, warrant, order, authority, or request for the payment of money, within the true intent and meaning of this act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this act, and punished accordingly.

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

40. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this act expressed to be an offence, if any person shall, in England or Ireland, forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any such writing or matter

Forging, &c. in England or Ireland documents purporting to be made, or actually made, out of England and Ireland; forg-

ing, &c. in
England or
Ireland bills of
exchange, &c.
purporting to
be payable out
of England or
Ireland.

in whatsoever place or country out of England and Ireland, whether under the dominion of Her Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in England or Ireland; and if any person shall in England or Ireland forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of any goods or security, or any deed, bond, or writing obligatory for the payment of money (whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the payment of money together with some other purpose), or any indorsement on or assignment of any such undertaking, warrant, order, authority, request, deed, bond, or writing obligatory, in whatsoever place or country out of England and Ireland, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority, request, deed, bond, or writing obligatory may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, order, authority, or request be or be not under seal, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in England or Ireland.

Forgers, &c.
may be tried
in the county
where they are
apprehended or
are in custody.

41. If any person shall commit any offence against this act, or shall commit any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of, or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case shall be indictable at common law, or by virtue of any act passed or to be passed, every such offender may be dealt with, indicted, tried, and punished, in any county or place in

which he shall be apprehended or be in custody, in the same manner in all respects as if his offence had been actually committed in that county or place; and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted, tried, and punished, in any county or place in which he shall be apprehended or be in custody, in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such county or place.

42. [Description of instrument in indictments for forgery.]

43. [Description of instrument in indictments for engraving, &c.]

44. [Intent to defraud particular persons need not be alleged or proved.]

45. Where the having any matter in the custody or possession of any person is in this act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in the actual custody or possession of any other person, or shall knowingly and wilfully have any such matter in any dwelling house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this act.

Interpretation
as to criminal
possession.

46. If it shall be made to appear, by information on oath or affirmation before a justice, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any note or bill of the governor and company of the bank of England or Ireland, or of any body corporate, company, or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone, or other material having thereon any words, forms, devices, or characters capable of producing or intended to produce the impression of any such note or bill, or any part thereof, or any tool, implement, or material

Search for
paper or imple-
ments em-
ployed in any
forgery, and for
forged instru-
ments.

used or employed or intended to be used or employed in or about any of the operations aforesaid, or any forged security, document, or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper, or other matter or thing used or employed or intended to be used or employed in the forgery of any security, document, or instrument whatsoever, such justice may, if he think fit, grant a warrant to search for the same; and if the same shall be found upon such search, it shall be lawful to seize and carry the same before some justice of the county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall by order of the court where any such offender shall be tried, or in case there shall be no such trial then by order of some justice, be defaced and destroyed or otherwise disposed of as such court or justice shall direct.

Other punishments substituted for those of 5 Eliz. c. 14., which have been adopted in other acts.

47. Whosoever shall, after the commencement of this act, be convicted of any offence which shall have been subjected by any act or acts to the same pains and penalties as are imposed by 5 Eliz. c. 14. (An Act against Forgers of false Deeds and Writings,) for any of the offences first enumerated in the said act, shall be guilty of felony, and shall, in lieu of such pains and penalties, be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

All forgeries which were capital before 1 W. 4. c. 66., and are not otherwise punishable under this act, shall be punishable with penal servitude for life, &c.

48. Where by any act now in force any person falsely making, forging, counterfeiting, erasing, or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away, or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased, or altered, or any person demanding or endeavouring to receive or have any thing, or to do or cause to be done any act, upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased, or altered, would, according to the provisions contained in any such act, be guilty of felony, and would, before the passing of 1 Will. 4. c. 66., have been liable to suffer death as a felon; or where by any act now in force any person falsely personating another, or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false

entry in any book, account, or document, or in any manner wilfully falsifying any part of any book, account, or document, or wilfully making a transfer of any stock, annuity, or fund in the name of any person not being the owner thereof, or knowingly taking any false oath, or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation, would, according to the provisions contained in any such act, be guilty of felony, and would before the passing of the said act of 1 Will. 4. have been liable to suffer death as a felon; or where by any act now in force any person making or using, or knowingly having in his custody or possession, any frame, mould, or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such act, be guilty of felony, and would before the passing of the said act of 1 Will. 4. have been liable to suffer death as a felon; then, and in each of the several cases aforesaid, if any person shall after the commencement of this act be convicted of any such felony as is hereinbefore in this section mentioned, or of aiding, abetting, counselling, or procuring the commission thereof, and the same shall not be punishable under any of the other provisions of this act, every such person shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

49–56. [Principals in the second degree and accessories; abettors in misdemeanors; offences committed within the jurisdiction of the Admiralty; fine and sureties for keeping the peace; in what cases; hard labour; solitary confinement; the costs of the prosecution of misdemeanor against this act may be allowed; act not to extend to Scotland, except as otherwise expressly provided; commencement of act.]

These sections are substantially the same as the corresponding enactments, ss. 98, 115, 117, 118, 119, 121, 122, and 123 of c. 96. of the same session, ante, pp. 448, 452–454.

OFFENCES RELATING TO THE COIN. (CONSOLIDATION AND
AMENDMENT OF STATUTE LAW).

24 & 25 VICT. c. 99.

- Interpretation of terms.**
'Current gold or silver coin.'
'Copper coin.'
'False or counterfeit coin.'
'Current coin.'
What shall be possession.
Counterfeiting the gold or silver coin.
1. In the interpretation of and for the purposes of this act, the expression "the Queen's current gold or silver coin" shall include any gold or silver coin coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty's dominions, whether within the United Kingdom or otherwise; and the expression "the Queen's copper coin" shall include any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty's said dominions; and the expression "false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin" shall include any of the current coin which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered, so as to resemble or be apparently intended to resemble or pass for any of the Queen's current of a higher denomination; and the expression "the Queen's current coin" shall include any coin coined in any of Her Majesty's mints, or lawfully current by virtue of any proclamation or otherwise, in any part of Her Majesty's said dominions, and whether made of gold, silver, copper, bronze, or mixed metal; and where the having any matter in the custody or possession of any person is mentioned in this act, it shall include, not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit or for that of any other person.
 2. Whosoever shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, shall ... be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceed-

ing two years, with or without hard labour, and with or without solitary confinement.

3. Whosoever shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, wash, case over, or colour any coin whatsoever resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, wash, case over, or colour any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or shall gild, or shall, with any wash or materials capable of producing the colour or appearance of gold, or by any means whatsoever, wash, case over, or colour any of the Queen's current silver coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold coin; or shall gild or silver, or shall, with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, wash, case over, or colour any of the Queen's current copper coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold or silver coin, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Colouring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin.

Colouring or altering genuine coin with intent to make it pass for a higher coin.

4. Whosoever shall impair, diminish, or lighten any of the Queen's current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for the Queen's current gold or silver coin, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Impairing the gold or silver coin, with intent, &c.

Unlawful possession of filings or clippings of gold or silver coin.

5. Whosoever shall unlawfully have in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which shall have been produced or obtained by impairing, diminishing, or lightening any of the Queen's current gold or silver coin, knowing the same to have been so produced or obtained, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Buying or selling, &c. counterfeit gold or silver coin for lower value than its denomination.

6. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay or put off, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin at or for a lower rate or value than the same imports or was apparently intended to import, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

[Form of indictment.]

Importing counterfeit coin from beyond seas.

7. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall import or receive into the United Kingdom from beyond the seas any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Exporting counterfeit coin.

8. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall export or put on board any ship, vessel, or boat for the purpose of being exported from the United Kingdom, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current coin,

knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

9. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Uttering counterfeit gold or silver coin.

10. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and shall, at the time of such tendering, uttering, or putting off, have in his custody or possession, besides the false or counterfeit coin so tendered, uttered, or put off, any other piece of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, or shall, either on the day of such tendering, uttering, or putting off, or within the space of 10 days then next ensuing, tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall,..... be guilty of a misdemeanor,..... and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Uttering, accompanied by possession of other counterfeit coin, or followed by a second uttering.

11. Whosoever shall have in his custody or possession three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same or any of them, shall.....be guilty of a misdemeanor.....,and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any

Having three or more pieces of counterfeit gold or silver coin in possession, &c., with intent, &c.

Unlawful possession of filings or clippings of gold or silver coin.

5. Whosoever shall unlawfully have in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which shall have been produced or obtained by impairing, diminishing, or lightening any of the Queen's current gold or silver coin, knowing the same to have been so produced or obtained, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Buying or selling, &c. counterfeit gold or silver coin for lower value than its denomination.

6. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay or put off, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin at or for a lower rate or value than the same imports or was apparently intended to import, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

[Form of indictment.]

Importing counterfeit coin from beyond seas.

7. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall import or receive into the United Kingdom from beyond the seas any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Exporting counterfeit coin.

8. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall export or put on board any ship, vessel, or boat for the purpose of being exported from the United Kingdom, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current coin,

knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

9. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Uttering counterfeit gold or silver coin.

10. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and shall, at the time of such tendering, uttering, or putting off, have in his custody or possession, besides the false or counterfeit coin so tendered, uttered, or put off, any other piece of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, or shall, either on the day of such tendering, uttering, or putting off, or within the space of 10 days then next ensuing, tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, shall,..... be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Uttering, accompanied by possession of other counterfeit coin, or followed by a second uttering.

11. Whosoever shall have in his custody or possession three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same or any of them, shall.....be guilty of a misdemeanor.....,and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any

Having three or more pieces of counterfeit gold or silver coin in possession, &c., with intent, &c.

term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Every second offence of uttering, &c. after a previous conviction shall be felony.

12. Whosoever, having been convicted, either before or after the passing of this act, of any such misdemeanor or crime and offence as in any of the last three preceding sections mentioned, or of any felony or high crime and offence against this or any former act relating to the coin, shall afterwards commit any of the misdemeanors or crimes and offences in any of the said sections mentioned, shall..... be guilty of felony.....and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Uttering foreign coin, medals, &c. as current coin, with intent to defraud.

13. Whosoever shall, with intent to defraud, tender, utter, or put off as or for any of the Queen's current gold or silver coin, any coin not being such current gold or silver coin, or any medal or piece of metal or mixed metals, resembling in size, figure, and colour the current coin as or for which the same shall be so tendered, uttered, or put off, such coin, medal, or piece of metal or mixed metals so tendered, uttered, or put off being of less value than the current coin as or for which the same shall be so tendered, uttered, or put off, shall.....be guilty of a misdemeanor,..... and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Counterfeiting, &c. copper coin or making, &c. tools for counterfeiting copper coin.

14. Whosoever shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin; and whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly make or mend, or begin or proceed to make or mend, or buy or sell, or have in his custody or possession, any instrument, tool, or engine adapted and intended for the counterfeiting any of the Queen's current copper coin; or shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin, at or for a lower rate or value than the same imports or was apparently intended to import, shall.....be guilty of felony,.....and being convicted thereof

shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

15. Whosoever shall tender, utter, or put off any false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin, knowing the same to be false or counterfeit, or shall have in his custody or possession three or more pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any of the Queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same or any of them, shallbe guilty of a misdemeanor,.....and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Uttering base copper coin.

16. Whosoever shall deface any of the Queen's current gold, silver, or copper coin, by stamping thereon any names or words, whether such coin shall or shall not be thereby diminished or lightened, shall.....be guilty of a misdemeanor,.....and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour.

Defacing the coin by stamping words thereon.

17. No tender of payment in money made in any gold, silver, or copper coin so defaced by stamping as in the last preceding section mentioned shall be allowed to be a legal tender; and whosoever shall tender, utter, or put off any coin so defaced shall, on conviction thereof before two justices, be liable to pay any sum not exceeding 40s.; provided that it shall not be lawful for any person to proceed for any such last-mentioned penalty without the consentof Her Majesty's attorney general.....

Tender of coin so defaced not to be a legal tender, and penalty for uttering the same.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

18. Whosoever shall make or counterfeit any kind of coin not being the Queen's current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, shall.....be guilty of felony,.....and being convicted thereof shall be liable, at the discretion of the court,

Counterfeiting foreign gold and silver coin.

to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Bringing such counterfeit coin into the United Kingdom.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall bring or receive into the United Kingdom any such false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall.....be guilty of felony,.....and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Penalty for uttering such counterfeit coin.

20. Whosoever shall tender, utter, or put off any such false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, shall.....be guilty of a misdemeanor,.....and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding six months, with or without hard labour.

Second offence of uttering counterfeit foreign coin.

21. Whosoever, having been so convicted as in the last preceding section mentioned, shall afterwards commit the like offence of tendering, uttering, or putting off any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, shall.....be guilty of a misdemeanor,and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement ;

Third offence.

and whosoever, having been so convicted of a second offence, shall afterwards commit the like offence of tendering, uttering, or putting off any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, shall.....be guilty of felony.....and being convicted thereof shall be liable at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not

exceeding two years, with or without hard labour, and with or without solitary confinement.

22. Whosoever shall falsely make or counterfeit any kind of coin not being the Queen's current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals of less value than the silver coin of any foreign prince, state, or country, shall.....be guilty of a misdemeanor,.....and being convicted thereof shall be liable, at the discretion of the court, for the first offence to be imprisoned for any term not exceeding one year, and for the second offence to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour; and with or without solitary confinement.

Persons counterfeiting foreign coin other than gold and silver coin.

23. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall have in his custody or possession any greater number of pieces than five pieces of false or counterfeit coin resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, or any such copper or other coin as in the last preceding section mentioned, shall, on conviction thereof before any justice, forfeit and lose all such false and counterfeit coin, which shall be cut in pieces and destroyed by order of such justice, and shall for every such offence forfeit and pay any sum of money not exceeding 40s. nor less than 10s. for every such piece of false and counterfeit coin which shall be found in the custody or possession of such person, one moiety to the informer, and the other moiety to the poor of the parish where such offence shall be committed; [in default of payment of penalty such person may be imprisoned with hard labour for three months unless penalty sooner paid].

Penalty on persons having more than five pieces of counterfeit foreign coin in their possession.

See 2 & 3 Vict. c. 71. ss. 34. 47., ante, pp. 50, 56.

24. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly make or mend, or begin or proceed to make or mend, or buy or sell, or have in his custody or possession, any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould, in or upon which there shall be made or impressed, or which will make or impress, or which shall be adapted and intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any

Making, mending, or having possession of coining tools, felony.

of the Queen's current gold or silver coin, or of any coin of any foreign prince, state, or country, or any part or parts of both or either of such sides; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession, any edger, edging or other tool, collar, instrument, or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid; or shall make or mend, or begin or proceed to make or mend, or shall buy or sell, or have in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver, or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin as in this section aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Conveying
tools or monies
out of the mint
without autho-
rity, felony.

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25. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall knowingly convey out of any of Her Majesty's mints any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press, or engine used or employed in or about the coining of coin, or any useful part of any of the several matters aforesaid, or any coin, bullion, metal, or mixture of metals, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, —or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Coin suspected
to be dimi-
nished or coun-
terfeit may be
cut, &c. by any
person to whom
it is tendered.

26. Where any coin shall be tendered as the Queen's current gold or silver coin to any person who shall suspect the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, bend, or deface such coin, and if any coin so cut, broken, bent, or defaced shall appear to be diminished

otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting, breaking, bending, or defacing the same is hereby required to receive the same at the rate it was coined for; and if any dispute shall arise whether the coin so cut, broken, bent, or defaced be diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any justice, who is hereby empowered to examine upon oath as well the parties as any other person, in order to the decision of such dispute;

Who shall bear the loss.

and the tellers at the receipt of Her Majesty's exchequer, and their deputies and clerks, and the receivers general of every branch of Her Majesty's revenue, are hereby required to cut, break, or deface, or cause to be cut, broken, or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered to them in payment of any part of Her Majesty's revenue.

27. If any person shall find or discover in any place whatever, or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any of the Queen's current gold, silver, or copper coin, or any coin of any foreign prince, state, or country, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which shall have been produced or obtained by diminishing or lightening any of the Queen's current gold or silver coin, it shall be lawful for the person so finding or discovering and he is hereby required to seize the same, and to carry the same forthwith before some justice;

Provision for the discovery and seizure of counterfeit coin and coining tools, for securing them as evidence, and for ultimately disposing of them.

and where it shall be proved, on the oath of a credible witness before any justice, that there is reasonable cause to suspect that any person has been concerned in counterfeiting the Queen's current gold, silver, or copper coin, or any such foreign or other coin as in this act before mentioned, or has in his custody or possession any such false or counterfeit coin, or any instrument, tool, or engine whatsoever adapted and intended for the making or counterfeiting of any such coin, or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution, or otherwise as aforesaid,

it shall be lawful for any justice, by warrant under his hand, to cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night, and if any such false or counterfeit coin, or any such instrument, tool, or engine, or any such machine, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution, or otherwise as aforesaid, shall be found in any place so searched, to cause the same to be seized and carried forth-with before some justice ;

and whensoever any such false or counterfeit coin, or any such instrument, tool, or engine, or any such machine, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution, or otherwise as aforesaid, shall in any case whatsoever be seized and carried before a justice, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for any offence against this act ;

and all such false and counterfeit coin, and all instruments, tools, and engines adapted and intended for the making or counterfeiting of coin, and all such machines, and all such filings, clippings, and bullion, and all such gold and silver in dust, solution, or otherwise as aforesaid, after they shall have been produced in evidence, or when they shall have been seized, and shall not be required to be produced in evidence, shall forthwith be delivered up to the officers of Her Majesty's mint, or to the solicitors of Her Majesty's treasury, or to any person authorized by them to receive the same.

Venue, &c.

28. Where any person shall tender, utter, or put off any false or counterfeit coin in one county or jurisdiction, and shall also tender, utter, or put off any other false or counterfeit coin in any other county or jurisdiction, either on the day of such first-mentioned tendering, uttering, or putting off, or within the space of 10 days next ensuing, or where two or more persons, acting in concert in different counties or jurisdictions, shall commit any offence against this act, every such offender may be dealt with, indicted, tried, and punished, and the offence laid and charged to have been committed, in any one of the said counties or jurisdictions, in the same manner in all respects as if the offence had been actually and wholly committed within such one county or jurisdiction.

What shall be sufficient proof of coin being counterfeit.

29. Where, upon the trial of any person charged with any offence against this act, it shall be necessary to prove

that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's mint, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

30. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering, or putting off, or of offering to buy, sell, receive, pay, utter, or put off, any false or counterfeit coin, against the provisions of this act, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered, or put off, or offered to be bought, sold, received, paid, uttered, or put off, shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Where the offence of uttering, &c. counterfeit coin shall be complete.

31. It shall be lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence..... against this act, and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed as soon as reasonably may be before a justice or some other proper officer, to be dealt with according to law.

Any person may apprehend any person committing any indictable offence against this act.

See also 2 & 3 Vict. c. 47. s. 66., ante, p. 34.

32. [Conviction, &c. not to be quashed for informality, &c. Certiorari, &c.]

See 2 & 3 Vict. c. 71. s. 49., ante, p. 56.

33. [Venue in proceedings against persons acting under this act. Notice of action. General issue, &c.]

See 10 Geo. 4. c. 44. s. 41., ante, p. 39. This enactment (so far as it relates to England) is identical with that, except that this omits the last words "and of the verdict obtained thereupon."

34. [Trial of offences in Scotland.]

35. [Punishment of principal in the second degree, and accessories.]

This is the same as s. 98. of c. 96., ante, p. 448, down to "hard labour," the rest of that enactment being omitted in this.

36. All indictable offences mentioned in this act which shall be committed within the jurisdiction of the Admiralty of England or Ireland shall be deemed to be offences of the

Offences committed within the Jurisdiction of the Admiralty.

same nature and liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be dealt with, inquired of, tried, and determined in any county or place in England or Ireland in which the offender shall be apprehended or be in custody, in the same manner in all respects as if the same had been actually committed in that county or place ;

[Form of indictment.]

and where any of the crimes and offences, or high crimes and offences, mentioned in this act, shall be committed at sea, and the vessel in which the same shall be committed shall be registered in Scotland, or touch at any part thereof, the courts of criminal law of Scotland may inquire, try, and determine the same in the same manner as if such crime and offence, or high crime and offence, had been committed in Scotland ;

provided that nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty's land or naval forces.

37. [Form of indictment for a subsequent offence, mode of proceeding on the trial, &c.]

38-41. [Fine and sureties for keeping the peace, in what cases ; hard labour ; solitary confinement ; summary proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 15 Vict. c. 93. ; except in London and the metropolitan police district.]

These sections are the same as the corresponding enactments, ss. 117-120, of c. 96., of the same session, ante, pp. 453, 454.

Costs of prosecutions.

42. In all prosecutions for any offence against this act which shall be conducted under the direction of the solicitors of Her Majesty's treasury, the court before which such offence shall be prosecuted or tried shall allow the expenses of the prosecution in all respects as in cases of felony ; and in all prosecutions for any such offence which shall not be so conducted it shall be lawful for such court, in case a conviction shall take place, but not otherwise, to allow the expenses of the prosecution in like manner ; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

43. [Act to commence on the 1st November 1861.]

OFFENCES AGAINST THE PERSON (CONSOLIDATION AND
AMENDMENT OF STATUTE LAW).

24 & 25 VICT. c. 100.

Homicide.

1. Whosoever shall be convicted of murder shall suffer **Murder.**
death as a felon.

2. Upon every conviction for murder the court shall **Sentence for**
pronounce sentence of death, and the same may be carried **murder.**
into execution, and all other proceedings upon such sen-
tence and in respect thereof may be had and taken, in the
same manner in all respects as sentence of death might
have been pronounced and carried into execution, and all
other proceedings thereupon and in respect thereof might
have been had and taken, before the passing of this act,
upon a conviction for any other felony for which the
prisoner might have been sentenced to suffer death as a
felon.

3. [Body to be buried in prison.]

4. All persons who shall conspire, confederate, and **Conspiring or**
agree to murder any person, whether he be a subject of **soliciting to**
Her Majesty or not, and whether he be within the Queen's **commit murder.**
dominions or not, and whosoever shall solicit, encourage,
persuade, or endeavour to persuade, or shall propose
to any person to murder any other person, whether he
be a subject of Her Majesty or not, and whether he be
within the Queen's dominions or not, shall be guilty of
a misdemeanor, and being convicted thereof shall be liable,
at the discretion of the court, to be kept in penal servi-
tude for any term not more than 10 and not less than
three years,—or to be imprisoned for any term not ex-
ceeding two years, with or without hard labour.

5. Whosoever shall be convicted of manslaughter shall **Manslaughter.**
be liable, at the discretion of the court, to be kept in penal
servitude for life or for any term not less than three
years,—or to be imprisoned for any term not exceeding
two years, with or without hard labour, or to pay such
fine as the court shall award, in addition to or without
any such other discretionary punishment as aforesaid.

6. [Form of indictment for murder or manslaughter.]

Excusable homicide.

7. No punishment or forfeiture shall be incurred by any person who shall kill another by misfortune or in his own defence, or in any other manner without felony.

Petit treason.

8. Every offence which before the commencement of 9 Geo. 4. c. 31. would have amounted to petit treason shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder.

Murder or manslaughter abroad.

9. Where any murder or manslaughter shall be committed on land out of the United Kingdom, whether within the Queen's dominions or without, and whether the person killed were a subject of Her Majesty or not, every offence committed by any subject of Her Majesty, in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in any county or place in England or Ireland in which such person shall be apprehended or be in custody, in the same manner in all respects as if such offence had been actually committed in that county or place;

provided that nothing herein contained shall prevent any person from being tried in any place out of England or Ireland for any murder or manslaughter committed out of England or Ireland, in the same manner as such person might have been tried before the passing of this act.

Provision for the trial of murder and manslaughter, where the death, or the cause of death only, happens in England or Ireland.

10. Where any person, being feloniously stricken, poisoned, or otherwise hurt upon the sea, or at any place out of England or Ireland, shall die of such stroke, poisoning, or hurt in England or Ireland, or, being feloniously stricken, poisoned, or otherwise hurt at any place in England or Ireland, shall die of such stroke, poisoning, or hurt upon the sea, or at any place out of England or Ireland, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the county or place in England or Ireland in which such death, stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed in that county or place.

Attempts to murder.

11. Whosoever shall administer to or cause to be administered to or be taken by any person any poison or other destructive thing, or shall by any means whatsoever wound or cause any grievous bodily harm to any person, with intent in any of the cases aforesaid to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Administering poison, or wounding with intent to murder.

12. Whosoever, by the explosion of gunpowder or other explosive substance, shall destroy or damage any building with intent to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Destroying or damaging a building with gunpowder, &c. with intent to murder.

13. Whosoever shall set fire to any ship or vessel or any part thereof, or any part of the tackle, apparel, or furniture thereof, or any goods or chattels being therein, or shall cast away or destroy any ship or vessel, with intent in any of such cases to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Setting fire to or casting away a ship, &c. with intent to murder.

14. Whosoever shall attempt to administer to or shall attempt to cause to be administered or to be taken by any person any poison or other destructive thing, or shall shoot at any person, or shall, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent, in any of the cases aforesaid, to commit murder, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Attempting to administer poison, or shooting or attempting to shoot or attempting to drown, &c. with intent to murder.

By any other means attempting to commit murder.

15. Whosoever shall, by any means other than those specified in any of the preceding sections of this act, attempt to commit murder, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Letters threatening to murder.

Sending letter threatening to murder.

16. Whosoever shall maliciously send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding ten years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Acts causing or tending to cause danger to life or bodily harm.

Impeding a person endeavouring to save himself or another person from shipwreck.

17. Whosoever shall unlawfully and maliciously prevent or impede any person, being on board of or having quitted any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life, or shall unlawfully and maliciously prevent or impede any person in his endeavour to save the life of any such person as in this section first aforesaid, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Shooting or attempting to shoot, or wounding with intent to do grievous bodily harm.

18. Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily harm to any person, or shoot at any person, or, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and

being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

See also 9 Geo. 4. c. 69. s. 2., ante, p. 332.

19. Any gun, pistol, or other arms which shall be loaded in the barrel with gunpowder or any other explosive substance, and ball, shot, slug, or other destructive material, shall be deemed to be loaded arms within the meaning of this act, although the attempt to discharge the same may fail from want of proper priming or from any other cause.

What to constitute loaded arms.

20. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Inflicting bodily injury, with or without weapon.

21. Whosoever shall, by any means whatsoever, attempt to choke, suffocate, or strangle any other person, or shall, by any means calculated to choke, suffocate, or strangle, attempt to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Attempting to choke, &c. in order to commit any indictable offence.

22. Whosoever shall unlawfully apply or administer to or cause to be taken by, or attempt to apply or administer to or attempt to cause to be administered to or taken by any person, any chloroform, laudanum, or other stupefying or overpowering drug, matter, or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing, any indictable offence, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal

Using chloroform, &c. to commit any indictable offence.

servitude for life or for any other term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Maliciously administering poison, &c. so as to endanger life or inflict grievous bodily harm.

23. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 10 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Maliciously administering poison, &c. with intent to injure, aggrieve, or annoy any other person.

24. Whosoever shall unlawfully and maliciously administer to or cause to be administered to or taken by any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Person charged under s. 23. may be found guilty of misdemeanor under s. 24.

25. If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then and in every such case the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be liable to be punished in the same manner as if convicted upon an indictment for such misdemeanor.

Not providing apprentices or servants with food, &c. whereby life endangered, &c.

26. Whosoever, being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do or cause to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant shall be endangered, or the health of such apprentice or servant shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

27. Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Exposing infants whereby life endangered, &c.

28. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Causing bodily injury by gunpowder, &c.

29. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Causing gunpowder, &c. to explode, or sending to any person an explosive substance, or throwing corrosive fluid, &c. on a person, with intent to do grievous bodily harm.

30. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any building, ship, or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, shall, whether or not any explosion take place, and whether or not any bodily injury be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not

Placing gunpowder, &c. near a building, &c. with intent to do bodily injury to any person.

exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

Setting spring guns, &c. with intent to inflict grievous bodily harm.

31. Whosoever shall set or place, or cause to be set or placed, any spring gun, man trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour ;

and whosoever shall knowingly and wilfully permit any such spring gun, man trap, or other engine which may have been set or placed in any place then being in or afterwards coming into his possession or occupation by some other person to continue so set or placed, shall be deemed to have set and placed such gun, trap, or engine with such intent as aforesaid :

Provided that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent to destroy vermin :

Provided also, that nothing in this section shall be deemed to make it unlawful to set or place or cause to be set or placed, or to be continued set or placed, from sunset to sunrise, any spring gun, man trap, or other engine which shall be set or placed, or caused or continued to be set or placed, in a dwelling house, for the protection thereof.

Placing wood, &c. on a railway, with intent to endanger passengers.

32. Whosoever shall unlawfully and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, shall be guilty of felony, and being con-

victed thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping.

33. Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any engine, tender, carriage, or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck of any train of which such first-mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Casting stone, &c. upon a railway carriage, with intent to endanger the safety of any person therein.

34. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Doing or omitting anything to endanger passengers by railway.

35. Whosoever, having the charge of any carriage or vehicle, shall, by wanton or furious driving or racing, or other wilful misconduct, or by wilful neglect, do or cause to be done any bodily harm to any person whatsoever, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Drivers of carriages injuring persons by furious driving, &c.

See also 6 & 7 Vict. c. 86. s. 28., ante, p. 106, and references thereon, 5 & 6 Will. 4. c. 50. s. 78., ante, p. 281, 282, and 3 Geo. 4. c. 126. s. 130., ante, p. 287.

Assaults.

36. Whosoever shall, by threats or force, obstruct or prevent, or endeavour to obstruct or prevent, any clergyman or other minister in or from celebrating divine service or otherwise officiating in any church, chapel, meeting house, or other place of divine worship, or in or from the

Obstructing or assaulting a clergyman or other minister in the discharge of his duties.

performance of his duty in the lawful burial of the dead in any churchyard or other burial place, or shall strike or offer any violence to, or shall, upon any civil process, or under the pretence of executing any civil process, arrest any clergyman or other minister who is engaged in, or to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, or who to the knowledge of the offender shall be going to perform the same or returning from the performance thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Assaulting a
magistrate, &c.
on account of
his preserving
wreck.

37. Whosoever shall assault and strike or wound any magistrate, officer, or other person whatsoever lawfully authorized, in or on account of the exercise of his duty in or concerning the preservation of any vessel in distress, or of any vessel, goods, or effects wrecked, stranded, or cast on shore, or lying under water, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Assault with
intent to com-
mit felony, or
on peace
officers, &c.

38. Whosoever shall assault any person with intent to commit felony, or shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, or any person acting in aid of such officer, or shall assault any person with intent to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

See also 2 & 3 Vict. c. 47. s. 18., ante, p. 14., and references thereon.

Assaults with
intent to ob-
struct the sale
of grain, or its
free passage.

39. Whosoever shall beat, or use any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling, or otherwise disposing of, or to compel him to buy, sell, or otherwise dispose of, any wheat or other grain, flour, meal, malt, or potatoes, in any market or other place, or shall beat or use any such violence or threat to any person having the care or charge of any wheat or other grain, flour, meal, malt, or potatoes, whilst

on the way to or from any city, market town, or other place, with intent to stop the conveyance of the same, shall, on conviction thereof before two justices, be liable to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three months: Provided that no person who shall be punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

40. Whosoever shall unlawfully and with force hinder or prevent any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat or use any violence to any such person, with intent to hinder or prevent him from working at or exercising the same, shall, on conviction thereof before two justices, be liable to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three months: Provided that no person who shall be punished for any such offence by reason of this section shall be punished for the same offence by virtue of any other law whatsoever.

Assaults on seamen, &c.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

41. Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business, or manufacture, or respecting any person concerned or employed therein, shall unlawfully assault any person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Assaults arising from combination to raise wages, &c.

42. Where any person shall unlawfully assault or beat any other person, two justices, upon complaint by or on behalf of the party aggrieved, may hear and determine such offence, and the offender shall, upon conviction thereof before them, at the discretion of the justices, either be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for any term not exceeding two months, or else shall pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered), the sum of £5; [in default of payment offender may be imprisoned, with or without hard labour, for not exceeding two months, unless payment sooner made.]

Persons committing any common assault or battery may be imprisoned, or compelled by two justices to pay fine and costs not exceeding £5.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

Persons convicted of aggravated assaults on females and on boys under 14 years of age may be imprisoned or fined.

43. When any person shall be charged before two justices with an assault or battery upon any male child whose age shall not in the opinion of such justices exceed 14 years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the said justices, if the assault or battery is of such an aggravated nature that it cannot in their opinion be sufficiently punished under the provisions herein-before contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and if the same be proved, may convict the person accused; and every such offender shall be liable to be imprisoned in the common gaol or house of correction, with or without hard labour, for any period not exceeding six months, or to pay a fine not exceeding (together with costs) the sum of £20, and in default of payment to be imprisoned in the common gaol or house of correction for any period not exceeding six months, unless such fine and costs be sooner paid, and if the justices shall so think fit, in any of the said cases, shall be bound to keep the peace and be of good behaviour for any period not exceeding six months from the expiration of such sentence.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

If justices dismiss the complaint, they shall make out a certificate to that effect.

44. If the justices, upon the hearing of any such case of assault or battery upon the merits, where the complaint was preferred by or on the behalf of the party aggrieved, under either of the last two preceding sections, shall deem the offence not to be proved, or shall find the assault or battery to have been justified, or so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

45. [Certificate or conviction shall be a bar to any other proceedings, civil or criminal.]

Justices to abstain from adjudicating in certain cases.

46. Provided, that in case the justices shall find the assault or battery complained of to have been accompanied by any attempt to commit felony, or shall be of opinion that the same is, from any other circumstance, a fit subject for a prosecution by indictment, they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if they had no authority finally to hear and determine the same:

Provided also, that nothing herein contained shall authorize any justices to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements, or hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice.

47. Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour; and whosoever shall be convicted upon an indictment for a common assault shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding one year, with or without hard labour.

Assault occasioning bodily harm.

Common assault.

Rape, Abduction, and Defilement of Women.

48. Whosoever shall be convicted of the crime of rape shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Rape.

49. Whosoever shall, by false pretences, false representations, or other fraudulent means, procure any woman or girl under the age of 21 years to have illicit carnal connexion with any man, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Procuring the defilement of girl under age.

50. Whosoever shall unlawfully and carnally know and abuse any girl under the age of 10 years shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Carnally knowing a girl under 10 years of age.

51. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of 10 years and under the age of 12 years shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of

Carnally knowing a girl between the ages of 10 and 12.

three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Indecent assault on any female.
Attempt at carnal knowledge of a girl under 12.

52. Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under 12 years of age, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Abduction of a woman against her will, from motives of lucre.

53. Where any woman of any age shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be a presumptive heiress or coheiress, or presumptive next of kin, or one of the presumptive next of kin, to any one having such interest, whosoever shall, from motives of lucre, take away or detain such woman against her will, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person;

Fraudulent abduction of a girl under age against the will of her father, &c.

and whosoever shall fraudulently allure, take away, or detain such woman, being under the age of 21 years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person,

shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour;

Offender incapable of taking any of her property.

and whosoever shall be convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she shall have any such interest, or which shall come to her as such heiress, coheiress, or next of kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction, be settled in such manner as the court of Chancery in England or Ireland shall upon any information at the suit of the attorney general appoint.

Forcible abduction of any woman with intent to marry her.

54. Whosoever shall, by force, take away or detain against her will any woman of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be guilty of felony, and being convicted thereof shall be liable, at the

discretion of the court, to be kept in penal servitude for any term not exceeding 14 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

55. Whosoever shall unlawfully take or cause to be taken any unmarried girl, being under the age of 16 years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Abduction of a girl under 16 years of age.

Child-stealing.

56. Whosoever shall unlawfully, either by force or fraud, lead or take away, or decoy or entice away or detain, any child under the age of 14 years, with intent to deprive any parent, guardian, or other person having the lawful care or charge of such child of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong ;

Child-stealing.

and whosoever shall, with any such intent, receive or harbour any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away, or detained as in this section before mentioned,

shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of 16 years, with or without whipping :

Provided that no person who shall have claimed any right to the possession of such child, or shall be the mother or shall have claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof.

Bigamy.

57. Whosoever, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in England or Ireland or elsewhere, shall be guilty of felony,

Bigamy.

Offence may be dealt with where offender shall be apprehended.

Not to extend to second marriages, &c. herein stated.

and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour; and any such offence may be dealt with, inquired of, tried, determined, and punished in any county or place in England or Ireland where the offender shall be apprehended or be in custody, in the same manner in all respects as if the offence had been actually committed in that county or place: Provided that nothing in this section contained shall extend to any second marriage contracted elsewhere than in England and Ireland by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

Attempts to procure abortion.

Administering drugs or using instruments to procure abortion.

58. Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent;

and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent,

shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Supplying or procuring drugs, &c. to procure abortion.

59. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with

child, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Concealing the birth of a child.

60. If any woman shall be delivered of a child, every person who shall, by any secret disposition of the dead body of the said child, whether such child died before, at, or after its birth, endeavour to conceal the birth thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth.

Concealing the birth of a child.

Unnatural offences.

61. Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than 10 years.

Sodomy and bestiality.

62. Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding 10 years and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour.

Attempt to commit an infamous crime.

63. Whenever, upon the trial for any offence punishable under this act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the

Carnal knowledge defined.

carnal knowledge shall be deemed complete upon proof of penetration only.

Making gunpowder to commit offences, and searching for the same.

Making or having gunpowder, &c., with intent to commit any felony against this act.

64. Whosoever shall knowingly have in his possession, or make or manufacture any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this act mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of 16 years, with or without whipping.

65. [Justices may issue warrants for searching houses, &c. for such gunpowder, &c.]

This enactment is substantially and almost verbatim the same as s. 55. of c. 97. of the same session, ante, p. 473.

Other matters.

A person loitering at night, and suspected of any felony against this act, may be apprehended.

66. Any constable or peace officer may take into custody without a warrant any person whom he shall find lying or loitering in any highway, yard, or other place during the night, and whom he shall have good cause to suspect of having committed or being about to commit any felony in this act mentioned, and shall take such person as soon as reasonably may be before a justice, to be dealt with according to law.

See also 2 & 3 Vict. c. 47. s. 64., ante, pp. 33-4, and 5 Geo. 4. c. 83. ss. 4-6., ante, pp. 122-5.

Punishment of principals in the second degree, and accessories.

67. In the case of every felony punishable under this act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this act punishable ;

and every accessory after the fact to any felony punishable under this act (except murder) shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour ;

and every accessory after the fact to murder shall be liable, at the discretion of the court, to be kept in penal

servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour;

and whosoever shall counsel, aid, or abet the commission of any indictable misdemeanor punishable under this act shall be liable to be proceeded against, indicted, and punished as a principal offender.

68-72. [Offences committed within the jurisdiction of the Admiralty; hard labour in gaol or house of correction; solitary confinement and whipping; fine and sureties for keeping the peace, in what cases; conviction not to be quashed for informality, &c.]

These sections are substantially the same as the corresponding enactments, ss. 115, 118, 119, 117, and 111 of c. 96. of the same session, ante, pp. 452-454.

73. Where any complaint shall be made of any offence against section 26. of this act, or of any bodily injury inflicted upon any person under the age of 16 years, for which the party committing it is liable to be indicted, and the circumstances of which offence amount, in point of law, to a felony, or an attempt to commit a felony, or an assault with intent to commit a felony, and two justices before whom such complaint is heard shall certify under their hands that it is necessary for the purposes of public justice that the prosecution should be conducted by the guardians of the union or place, or, where there are no guardians, by the overseers of the poor of the place in which the offence shall be charged to have been committed, such guardians or overseers, as the case may be, upon personal service of such certificate or a duplicate thereof upon the clerk of such guardians or upon any one of such overseers, shall conduct the prosecution, and shall pay the costs reasonably and properly incurred by them therein (so far as the same shall not be allowed to them under any order of any court) out of the common fund of the union, or out of the funds in the hands of the guardians or overseers, as the case may be; and, where there is a board of guardians, the clerk or some other officer of the union or place, and, where there is no board of guardians, one of the overseers of the poor, may, if such justices think it necessary for the purposes of public justice, be bound over to prosecute.

See 2 & 3 Vict. c. 71. s. 14., ante, p. 43.

74. Where any person shall be convicted on any indictment of any assault, whether with or without battery and

Guardians and overseers may be required to prosecute in certain cases of offences against this act.

Costs of prosecution.

Clerk of guardians may be bound over to prosecute.

On a conviction for assault the court may order

payment of the
prosecutor's
costs by the
defendant.

wounding, or either of them, such person may, if the court think fit, in addition to any sentence which the court may deem proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for the loss of time as the court shall by affidavit or other inquiry and examination ascertain to be reasonable; and, unless the sum so awarded shall be sooner paid, the offender shall be imprisoned for any term the court shall award, not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

75. [Such costs may be levied by distress.]

76-79. [Summary proceedings in England may be under the 11 & 12 Vict. c. 43., and in Ireland under the 14 & 25 Vict. c. 93.; except in London and the metropolitan police district; the costs of the prosecution of misdemeanors against this act may be allowed; act not to extend to Scotland; commencement of act.]

These sections are substantially the same as the corresponding enactments, ss. 120-123 of c. 96. of the same session, ante, p. 454.

ACCESSORIES TO AND ABETTORS OF INDICTABLE OFFENCES (CONSOLIDATION AND AMENDMENT OF STATUTE LAW).

24 & 25 Vict. c. 94.

1. [Accessories before the fact may be tried and punished as principals.]

2. [Accessories before the fact may be indicted as such, or as substantive felons.]

3. [Accessories after the fact may be indicted as such, or as substantive felons.]

4. [Punishment of accessories after the fact.]

5. [Accessory may be prosecuted after principal has been convicted, but not attainted.]

6. [Several accessories may be included in the same indictment, although principal felon not included.]

7. [Where accessories may be tried.]

8. [Abettors in misdemeanors may be tried, &c., a principal offenders.]

9. [As to offences committed within the jurisdiction of the Admiralty.]

10. [Act not to extend to Scotland.]

11. [Act to commence on 1st November 1861.]

• *Staphylococcus aureus* (Staph aureus)

• *Staphylococcus epidermidis* (Staph epidermidis)

• *Staphylococcus saprophyticus* (Staph saprophyticus)

• *Staphylococcus carnosus* (Staph carnosus)

• *Staphylococcus sciuri* (Staph sciuri)

• *Staphylococcus albus* (Staph albus)

• *Staphylococcus hyicus* (Staph hyicus)

• *Staphylococcus*

• *Staphylococcus*

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APPENDIX.

APPENDIX (A.)

Parishes and Places constituting THE METROPOLITAN POLICE DISTRICT under 10 Geo. 4. c. 44., and an Order of the Queen in Council of 3d January 1840, made under 10 Geo. 4. c. 44. and 2 & 3 Vict. c 47.*

The Parishes, &c. are arranged according to a list of places assessed to the Metropolitan Police Rate furnished by the Receiver.

County.	Parishes, &c.	County.	Parishes, &c.
Midd.	Acton.	Kent	Bromley.
Surrey	Addington.	Midd.	Bromley, St. Leonard.
Herts.	Aldenham.	Herts.	Bushey.
"	" Hamlet of Theobald, St.	Surrey	Carshalton.
Midd.	All Saints, Poplar.	Kent	Charlton.
"	Ashford.	Midd.	Charter House.
Surrey	Banstead.	Surrey	Cheam.
Essex	Barking, Town Ward.	Herts.	Cheshunt.
"	" Chadwell Ward.	Surrey	Chessington.
"	" Great Ilford Ward.	Essex	Chigwell.
"	" Ripple do.	"	Chingford.
Surrey	Barnes.	Herts.	Chipping Barnet.
Herts.	Barnet, East.	Kent	Chiselhurst.
Surrey	Battersea.	Midd.	Chiswick.
Kent	Beckenham.	Surrey	Christchurch,
Surrey	Beddington.	Midd.	Christchurch,
Midd.	Bedfont, East.		Spitalfields.
Kent	Bexley.	Surrey	Clapham.
		"	Coulsdon.
		Midd.	Cowley.
		"	Cranford.

* From the above list are omitted two places constituting under 10 Geo. 4. c. 44. part of the Metropolitan Police District; viz. the liberty of Glasshouse Yard and the precinct of the Tower within, as in these places the Metropolitan Police Acts are not put in force in consequence of obstacles to their assessment to the Police rate, arising in the case of the liberty of Glasshouse Yard from its being partly within the City of London, and in the case of the precinct of the Tower within, from its being a garrisoned fortress.

County.	Parishes, &c.	County.	Parishes, &c.
Kent	Crayford.	Midd.	Hanwell.
Surrey	Croydon.	"	Hanworth.
"	Cuddington.	"	Harefield.
Essex	Dagenham.	"	Harlington.
Kent	Down.	"	Harmondsworth.
Midd.	Drayton, West.	"	Harrow.
"	Ealing.	"	Hayes.
"	Edgware.	Kent	Hayes.
"	Edmonton.	Midd.	Hendon.
Herts.	Elstree.	"	Heston.
Kent.	Eltham.	"	Hillingdon.
Midd.	Enfield.	Surrey	Hook, Hamlet of.
Surrey	Epsom.	Midd.	Hornsey.
Kent	Erith.	"	Ickinham.
Surrey	Ewell (exclusive of Kingswood Lib.)*	"	Isleworth.
"	Farley.	Kent	Kensington.
Kent.	Farnborough.	Kent	Keston.
Midd.	Feltham.	Surrey	Kew.
"	Finchley.	Kent	Kidbrooke, Liberty of.
Kent	Footscray.	Midd.	Kingsbury.
Midd.	Fryern Barnet.	Surrey	Kingston-on Thames.
"	Fulham.	Midd.	Laleham.
"	Furnival's Inn (the part within Middlesex).	Kent	Lee.
"	Gray's Inn.	Midd.	Lewisham.
"	Greenford.	Essex	Lincoln's Inn.
Kent	Greenwich.	Midd.	Little Ilford.
Midd.	Hadley Monken.	Midd.	Littleton.
Surrey	Ham with Hatch, Hamlet of.	Surrey	Long Ditton.
Essex	Ham (East).	Essex	Loughton.
"	Ham (West) Church Street Ward.	"	Low Leyton.
"	Ham (West) Plaistow Ward.	Surrey	Maldon.
"	Ham (West) Stratford Ward	"	Merton.
Midd.	Hammersmith, Hamlet of.	Midd.	Mile End New Town, Hamlet of.
"	Hampton, Town and Court.	"	Mile End Old Town, Hamlet of.
"	Hampton Wick, Liberty of.	"	Mimms, South.
		Surrey	Mitcham.
		"	Mordon.
		"	Mortlake.
		Kent	Mottingham, Ham- let of.
		Surrey	Moulsey, East.
		"	Moulsey, West.

* And including Worcester Park. It is to be observed that in the Order in Council the description is "Ewell exclusive of part near Walton."

County.	Parishes, &c.	County.	Parishes, &c.
Midd.	New, Brentford Township of.	Midd.	St. George-in-the East.*
Herts.	Northaw.	"	St. George, Hanover Square.
Kent	Northcray.	Surrey	St. George, Southwark.
Midd.	Northolt.	"	St. Giles, Camberwell.
"	Norton Falgate, Liberty of.	Midd.	St. Giles-in-the Fields, and St. George, Bloomsbury.
"	Norwood, Precinct of.	"	St. James, Clerkenwell (including the District of St. John).
"	Old Artillery Ground, Liberty of.	"	St. James, Westminster.
"	Old Tower Precinct.	"	St. John, Hackney.
Kent	Orpington.	"	St. John, Hampstead.
Midd.	Paddington.	Surrey	St. John, Southwark.
Surrey	Penge, Hamlet of.	Midd.	St. John, Wapping.*
Midd.	Perivale.	"	St. Leonard, Shoreditch.
Surrey	Petersham.	"	St. Luke, Chelsea.
Midd.	Pinner, Hamlet of.	"	St. Luke, Finsbury.
Kent	Plumstead.	"	St. Margaret and St. John, Westminster.†
Surrey	Putney, including Roehampton.	"	St. Martin-in-the Fields.
Midd.	Ratcliffe, Hamlet of.	Surrey	St. Mary, Islington.
Surrey	Richmond.	Midd.	St. Mary, Lambeth.
Herts.	Ridge.	"	St. Mary-le-bone.
Midd.	Rolls, Lib. of the.	"	St. Mary-le-Strand, Westminster, & that part within the Duchy Lib.
Surrey	Rotherhithe.	Surrey	St. Mary, Magdalene, Bermondsey.
Midd.	Ruislip.	"	St. Mary, Newington.
"	St. Andrew, Holborn, and St. George the Martyr.	Kent	St. Mary's Cray.
"	St. Ann, Limehouse.		
"	St. Ann, Westminster.		
"	St. Catherine, Tower Division, Precinct of.		
"	St. Clement Danes, Westminster, & that part within the Duchy Liberty.		

* Including part of the precinct of Wellclose ; the residue of the precinct is included in the parishes of St. John, Wapping, and St. Mary, Whitechapel.

† Including Whitehall Gardens, Whitehall, and Richmond Terrace.

County.	Parishes, &c.	County.	Parishes, &c.
Midd.	St. Mary, Stoke Newington	Midd.	Stanmore, Little Stanwell.
"	St. Mary, Stratford, Bow.	"	Staple's Inn.
"	St. Mary, White-chapel.*	Surrey	Streatham.
"	St. Matthew, Bethnal Green.	Midd.	Sunbury.
Kent	St. Nicholas, Deptford.	Surrey	Sutton.
Surrey	St. Olave, Southwark.	Midd.	Teddington.
Midd.	St. Pancras.	Surrey	Thames Ditton, comprising the Hamlet or Manor of Cleygate, the Hamlet of Ember, and the Hamlet of Weston.
Midd.	St. Paul, Covent Garden.	"	Tooting.
Kent	St. Paul, Deptford (including the Hamlet of Hat-cham).	Midd.	Tottenham.
Midd.	St. Paul, Shadwell.	Herts.	Totteridge.
Kent	St. Paul's Cray.	Midd.	Trinity, Minories.
Midd.	St. Peter, Westminster, Close of the Collegiate Church of.	"	Twickenham.
Surrey	St. Saviour's and the Clink Lib.	"	Twyford Abbey, Liberty of.
Midd.	St. Sepulchre, Finsbury.	"	Uxbridge, Township and Chapter of.
Surrey	St. Thomas, Southwark.	Surrey	Wallington, Hamlet of.
Midd.	Saffron Hill, Hatton Garden, and Ely Rents, Liberty of.†	Essex	Waltham Abbey and Town, including the Hamlets of Holyfield of Sewardstone, and of Upshire.
Surrey	Sanderstead.	"	Walthamstow.
Midd.	Savoy, Holborn Division, Precinct of.	Surrey	Wandsworth.
Herts.	Shenley.	Essex	Wanstead.
Midd.	Shepperton.	Surrey	Warlingham.
"	Smithfield, East.	Kent	Wickham, East.
"	Staines.	"	Wickham, West.
"	Stanmore, Great.	Midd.	Willesden.
		Surrey	Wimbledon.
		Essex	Woodford.
		Surrey	Woodmansterne.‡
		Kent	Woolwich.

* See note on St. George-in-the-East. † Including Ely Place.
 ‡ Called in the Order in Council Woodmanstowe.

APPENDIX (B.)

A STATEMENT of the Total Number of Persons belonging to the METROPOLITAN POLICE FORCE on the 1st January 1861, in which the Number of Persons in each Class or Rank of such Force, and the Salaries, Pay, and Allowances enjoyed by each Class are distinguished, as required by the Act 2 & 3 Vict. cap. 47. sec. 9.

Class or Rank.	Number of Persons.	Salaries or Pay per Annum.			Allowances.
		£	s.	d.	
22 Superintendents	1	440	0	0	
	1	325	0	0	
	16	250	0	0	
	3	200	0	0	
	1	150	0	0	
189 Inspectors	3	200	0	0	
	2	175	0	0	
	4	168	6	0	
	1	158	10	0	
	5	150	0	0	
701 Serjeants	144	118	6	0	
	13	100	2	0	
	17	81	18	0	
	7	109	4	0	
	17	81	18	0	
5705 Constables	6	77	7	0	
	671	63	14	0	
	5	78	0	0	
	29	72	16	0	
	5	70	4	0	
	5	67	12	0	
	19	63	14	0	
	3	59	16	0	
	1737	54	12	0	
	3902	49	8	0	
Total	*6617				

Clothing and 40 lbs. of coals weekly to each married man all the year; and 40 lbs. weekly to each single man during about eight months, and 20 lbs. weekly during the remainder of the year.

(Signed) RICHARD MAYNE,
Commissioner of Police of the Metropolis.

* Includes the Police in Her Majesty's Dockyards and Military Stations.
23 & 24 Vict. cap. 135.

APPENDIX (C.)
Abstract of the Warrants for the POLICE RATES issued in the Year 1860, and Contribution from the Treasury
in the same Year.

Dates of the Commissioners Half-yearly Warrants.	Rental upon which computed.	Totals of the Police Rates at 4d. in the 1l. for the Half Year.	Charged upon the		Received from the		Balances due by	
			Parishes at 3d. in the 1l. for the Half Year.	Treasury at 1d. in the 1l. for the Half Year.	Parishes.	Treasury.	Parishes.	Treasury.
1 Jan. 1860 and 1 July "	£ s. d. 25,391,491 0 0	£ s. d. 208,030 9 0 215,161 1 4	£ s. d. 156,022 16 9 161,370 16 0	£ s. d. 52,007 12 3 53,790 5 4	£ s. d. 156,022 16 9 161,367 1 0	£ s. d. 52,007 12 3 53,790 5 4	£ s. d. 0 0 0 3 15 0	£ s. d. — —
Totals - £	25,391,491 0 0	423,191 10 4	317,393 12 9	105,797 17 7	317,389 17 9	105,797 17 7	3 15 0	—
			423,191 10 4		423,187 15 4		3 15 0	

(Signed) MAURICE DRUMMOND,
Receiver for the Metropolitan Police
and Police Courts.

APPENDIX (D.)

The several POLICE COURTS of the METROPOLIS, the BOUNDARIES of the DIVISIONS assigned to them, and the TIMES of ATTENDANCE at such Courts of the Magistrates (under 2 & 3 Vict. c. 71. and 3 & 4 Vict. c. 84., and the Orders in Council made thereunder), are as follows :—

Bow Street Police Court.—The space included within the following boundary, the same being within the Metropolitan Police District; (that is to say,) from the boundary of the city of London, at the Temple Stairs on the river Thames in a line running along the said boundary as far as Holborn Hill; thence westward along Holborn, including both sides thereof to King Street; thence northward along the centre thereof, and of Southampton Row and Woburn Place to the New Road; thence westward along the centre thereof to Tottenham Court Road; thence southward along the centre thereof, and of High Street, Great and Little St. Andrew Streets, and Saint Martin's Lane to Trafalgar Square; thence westward, including the said Square to Pall Mall, and along the centre thereof, and of Cleveland Row to the boundary of the Green Park; thence along the boundary thereof, and of St. James's Park (including Buckingham Palace and Grounds) to Storey's Gate, thence along the centre of Great George Street and Bridge Street to the river Thames on the north side of Westminster Bridge; and thence along the said river to the Temple Stairs aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Westminster Police Court (Vincent Square).—The space included within the following boundary, the same being within the Metropolitan Police District; (that is to say,) from the river Thames, on the south side of Westminster Bridge, in a line running westward along the boundary of the district assigned to Bow Street Police Court, as far as Hyde Park Corner; thence along the centre of the Knightsbridge Road, and of Queen's Buildings, Brompton Row, Michael's Place, and the Fulham Road to Stamford Bridge; thence southward along the Kensington Canal to the river Thames; and thence along the said river to the south side of Westminster Bridge as aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Marylebone Police Court (High Street).—The space included within the following boundary, the same being within the Metropolitan Police District; (that is to say,) from the Victoria Gate, Hyde Park, in a line running eastward along the boundary of the district assigned to Marlborough Street Police Court as far as

Tottenham Court Road ; thence along the centre of the New Road to the Corner of Upper Seymour Street ; thence northward along the boundary of the district of the Clerkenwell Police Court to Maiden Lane, near the North Cemetery ; thence south-westward to Shoot-up Hill ; thence to and including Kilburn ; thence to Westbourne Green (including the same), thence along the Green Lane and Pickering Place to Queen's Road ; and thence along the same to Victoria Gate aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Marlborough Street Police Court.—The space included within the following boundary, the same being within the Metropolitan Police District ; (that is to say,) from the Victoria Gate, Hyde Park, in a line running eastward along the boundary of the Park to Oxford Street ; thence along the said street (including both sides thereof) to Regent Street ; thence northward along the centre thereof, and of Langham Place, Portland Place, and Park Crescent East, to the New Road ; thence along the centre thereof to Tottenham Court Road ; thence along the boundary of the district assigned to Bow Street Police Court, as far as Hyde Park Corner ; thence along the centre of the Knightsbridge Road to the Park Gate opposite the Camden Arms public house ; thence along the boundary of Kensington Gardens, including Kensington Palace and Gardens, to Victoria Gate aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Clerkenwell Police Court (Bagnigge Wells Road).—The space included within the following boundary, the same being within the Metropolitan Police District ; (that is to say,) from the boundary of the city of London in Type Street, in a line running northward along the boundary of the Worship Street Police Court to Stamford Hill ; thence westward along Hanger Lane to Hornsey Lane, and along the same to Maiden Lane ; thence along the same to the Camden Road ; thence along the centre thereof to the Red Cap public house ; thence along the centre of High Street, in Camden Town, and of Upper Seymour Street, to the New Road ; thence along the boundary of the district assigned to Bow Street Police Court to the boundary of the city of London on Holborn Hill ; and thence along the said city boundary to Bunhill Row aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Worship Street Police Court.—The space included within the following boundary, the same being within the Metropolitan Police District ; (that is to say,) from the boundary of the city of London in Whitechapel High Street, in a line running eastward along the boundary of the district of the Thames Police Court to the river Lea ; thence northward along the Northern and Eastern Railway to High Bridge ; thence westward to Stamford Hill tollgate (including the same) ; thence southward to and

along the centre of Kingsland Road to the Regent's Canal; thence westward along the same to Ashley Crescent; thence along the centre thereof to Vaughan Terrace, and Shepherdess Walk (including St. Luke's Workhouse); thence along the centre of Bath Street, of Bunhill Row, and of Type Street, to the boundary of the City of London; and thence along the same to Whitechapel High Street aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Thames Police Court, Stepney (Arbour Square, Mile End Road).—The space included within the following boundary, the same being within the Metropolitan Police District; (that is to say,) from the river Thames, at Tower Stairs, in a line running along the boundary of the city of London to Whitechapel High Street; thence eastward along the centre thereof, and of Whitechapel Road and Mile End Road, to Globe Lane; thence along the centre thereof to the southern side of the Eastern Counties Railway; thence eastward to the Hackney Cut; thence southward along the same to Bow Bridge; thence along the river Lea to the river Thames; and thence along the said river Thames to Tower Stairs aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Southwark Police Court (Blackman Street).—The space included within the following boundary, the same being within the Metropolitan Police District; (that is to say,) from the river Thames, on the south-east side of Waterloo Bridge, in a line running southward along the boundary of the district assigned to the Lambeth Police Court, till it meets the boundary of the Greenwich Police Court district; thence northward along the said last-mentioned boundary to the river Thames; and thence along the said river to the south east side of Waterloo Bridge as aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Lambeth Police Court (Kennington Lane).—The space included within the following boundary, the same being within the said Metropolitan Police District; (that is to say,) from the river Thames, on the south-west side of Waterloo Bridge, in a line running along the centre of the Waterloo Road, the London Road, the New Kent Road, and the Kent Road, to the boundary of the district assigned to the Greenwich Police Court; thence westward along the said boundary in a straight line to the boundary of the Wandsworth Police Court District; thence along the said boundary to the river Thames, and thence along the said river Thames to the south-west side of Waterloo Bridge aforesaid.

Attendance of Police Magistrate from 10 o'clock a.m. until 5 o'clock p.m.

Hammersmith Police Court (Vernon Street, Fulham).—The parishes of Fulham and Kensington (including so much of Brompton as has not been assigned by any Order in Council to the Police Court called "Queen Square Police Court,"* and such part of the parish of St. Margaret, Westminster, as adjoins the parish of Hammersmith, and also that portion of the parish of Chelsea commonly called "Kensall Green" situate to the north of the said parish of Kensington), the parish of Hammersmith, and the parishes of Acton and Chiswick, all in the county of Middlesex, and within the Metropolitan Police District.

Attendance of Police Magistrate from 2 o'clock p.m. until 5 o'clock p.m.

Wandsworth Police Court.—The parishes of Wandsworth, Putney, Battersea, Tooting-Graveny (sometimes called Tooting), Merton, Wimbledon, Barnes, and Clapham, and the hamlet of Roehampton, all in the county of Surrey, and within the said Metropolitan Police District, together with so much of the parish of Streatham as comprises Upper Tooting and Balham Hill, in the same county and district.

Attendance of Police Magistrate from 10 o'clock a.m. until 1 o'clock p.m.

Greenwich Police Court.—The parishes of Greenwich, St. Nicholas, Deptford, that part of St. Paul's, Deptford, which is within the county of Kent, the parishes of Lewisham and Lea in the county of Kent; Rotherhithe; that part of St. Paul's Deptford which is within the county of Surrey; and the Hamlet of Hatcham, in the county of Surrey.

Attendance of Police Magistrate from 10 o'clock a.m. until half past 1 o'clock p.m.

Woolwich Police Court.—The parishes of Plumstead, Woolwich, Charlton, Eltham, the Liberty of Kidbrooke, and the hamlet of Mottingham, in the county of Kent.

Attendance of Police Magistrate from half past 2 o'clock p.m. until 5 o'clock p.m.

APPENDIX (E.)

18 & 19 Vict. c. 120.—SCHEDULE (A.)

Saint Marylebone.
 Saint Pancras.
 Lambeth.
 Saint George Hanover Square.
 Islington, Saint Mary.
 Shoreditch, Saint Leonard.
 Paddington.
 Saint Matthew Bethnal Green.
 Saint Mary Newington, Surrey.

* Now Westminster Police Court.

Camberwell.
 Saint James Westminster.
 Saint James and Saint John Clerkenwell to be considered as one parish.
 Chelsea.
 Kensington, Saint Mary Abbot.
 Saint Luke Middlesex.
 Saint George the Martyr Southwark.
 Bermondsey.
 Saint George in the East.
 Saint Martin in the Fields.
 Hamlet of Mile End Old Town.
 Woolwich.
 Rotherhithe.
 Saint John Hampstead.

SCHEDULE (B.)

PARISHES united into districts for the purposes of the act.

Name of district.	Parishes.
Whitechapel district -	Saint Mary Whitechapel. Christchurch Spitalfields. Saint Botolph without Aldgate, in the county of Middlesex. Holy Trinity, Minories. Saint Katherine, precinct of. Mile End New Town, hamlet of. Liberty of Norton Folgate. Old Artillery Ground. Tower, district of.
Westminster district -	Saint Margaret. Saint John the Evangelist.
Greenwich district -	Saint Paul Deptford, including Hatcham. Saint Nicholas Deptford. Greenwich.
Wandsworth district -	Clapham. Tooting Graveney. Streatham. Saint Mary Battersea, excluding Penge. Wandsworth. Putney, including Roehampton.
Hackney district -	Hackney. Saint Mary Stoke Newington.
Saint Giles district -	Saint Giles in the Fields. Saint George Bloomsbury.
Holborn district -	Saint Andrew Holborn above Bars. Saint George the Martyr. Saint Sepulchre, in the county of Middlesex. Saffron Hill, Hatton Garden, Ely Rents, and Ely Place.
Strand district -	The liberty of Glasshouse Yard. Saint Anne Soho. Saint Paul Covent Garden. Saint John the Baptist Savoy, or precinct of the Savoy. Saint Mary-le-Strand. Saint Clement Danes. Liberty of the Rolls.

Name of district.	Parishes.
Fulham district -	Saint Peter and Saint Paul Hammersmith. Fulham.
Limehouse district -	Saint Anne Limehouse. Saint John Wapping. Saint Paul Shadwell. Ratcliffe, hamlet of.
Poplar district -	All Saints Poplar. Saint Mary Stratford-le-Bow. Saint Leonard Bromley.
Saint Saviour's district -	Christchurch.
Plumstead district -	Saint Saviour (including the liberty of the Clink). Charlton next Woolwich. Plumstead. Eltham. Lee. Kidbrooke.
Lewisham district -	Lewisham, including Sydenham Chapelry. Hamlet of Penge.
Saint Olave district {	Saint Olave. Saint Thomas Southwark. Saint John Horsleydown.

SCHEDULE (C.)

The Close of the Collegiate Church of Saint Peter.
The Charter House.
Inner Temple.
Middle Temple.
Lincoln's Inn.
Gray's Inn.
Staple Inn.
Furnival's Inn.

APPENDIX (F.)*

15 & 16 Vict. c. 85. Sched. (A.)

THE city of London and the liberties thereof, the Inner Temple and Middle Temple, and all other places and parts of places contained within the exterior boundaries of liberties of the city of London.

In Middlesex.

The city and liberties of Westminster.
The parishes of St. Margaret and St. John the Evangelist.
The parish of St. Martin-in-the-Fields.
„ St. George, Hanover Square.
„ St. James.
„ St. Mary-le-Strand, as well within the liberty of Westminster as within the Duchy liberty.

* See 16 & 17 Vict. c. 128. s. 6., *ante*, p. 274.

The parish of St. Clement Danes, as well within the liberty of
Westminster as within the Duchy liberty.
" St. Paul, Covent Garden.
" St. Anne, Soho.
Whitehall Gardens.
Whitehall.
Richmond Terrace.
The Close of the Collegiate Church of St. Peter.

The parishes of St. Giles-in-the-Fields and St. George, Blooms-
bury.
" St. Andrew, Holborn, and St. George the Martyr.
The liberty of Hatton Garden, Saffron Hill, and Ely Rents.
" of the Rolls.
The parish of St. Pancras.
" St. John, Hampstead.
" St. Marylebone.
" Paddington.
The precinct of the Savoy.
The parish of St. Luke.
The liberty of Glasshouse Yard.
The parish of St. Sepulchre.
" St. James, Clerkenwell, including both districts of
St. James and St. John.
" St. Mary, Islington.
" St. Mary, Stoke Newington.
The Charterhouse.
The parish of St. Mary, Whitechapel.
" Christchurch, Spitalfields.
" St. Leonard, Shoreditch.
The liberty of Norton Folgate.
The parish of St. John, Hackney.
" St. Matthew, Bethnal Green.
The hamlet of Mile End Old Town.
" Mile End New Town.
The parish of St. Mary, Stratford, Bow.
" Bromley, St. Leonard.
" All Saints, Poplar.
" St. Anne, Limehouse.
The hamlet of Ratcliffe.
The parish of St. Paul, Shadwell.
" St. George-in-the-East.
" St. John, Wapping.
The liberty of East Smithfield.
The precinct of St. Catherine.
The liberty of Her Majesty's Tower of London, consisting of—
The liberty of the Old Artillery Ground.
The parish of Trinity, Minories.
The Old Tower precinct.
The precinct of the Tower Within.
The precinct of Wellclose.

The parish of Kensington.

„ St. Luke, Chelsea.

„ Fulham.

„ Hammersmith.

Lincoln's Inn.

New Inn.

Gray's Inn.

Staple Inn.

That part of Furnival's Inn in the county of Middlesex, Ely Place.

The parish of Willeſden.

In Kent.

The parish of St. Paul, Deptford.

„ St. Nicholas, Deptford.

„ Greenwich.

„ Woolwich.

„ Charlton.

„ Plumstead.

In Surrey.

The borough of Southwark.

The parish of St. George-the-Martyr.

„ St. Saviour.

„ St. John, Horsleydown.

„ St. Olave.

„ St. Thomas.

The parish of Battersea (except the hamlet of Penge).

„ Bermondsey.

„ Camberwell.

„ Clapham.

„ Lambeth.

„ Newington.

„ Putney.

„ Rotherhithe.

„ Streatham.

„ Tooting.

„ Wandsworth.

„ Christchurch.

The Clink liberty.

The hamlet of Hatcham in the parish of Deptford.

APPENDIX (G.)

The SCHEDULE [to 24 & 25 VICT. c. 95., *ante*, p. 414.]

References to act.	Title of act.	Extent of repeal.
10 C. 1. Sess. 3. c. 20. (I.)	An act against such as shall levie any fine, suffer any recovery, acknowledge any statute, recognizance, baile, or judgment in the name of any other person or persons not being privie and consenting thereto.	The whole.
7 W. 3. c. 18. (I.)	An act for taking special bails in the country upon actions and suits depending in the courts of King's Bench, Common Pleas, and Exchequer at Dublin.	Section 4.
2 & 3 Ann. c. 4.	An act for the public registering of deeds, conveyances, and wills that shall be made of any honors, manors, lands, tenements, or hereditaments within the west riding of the county of York after the 29th day of September 1704.	So much of section 19. as relates to any forging or counterfeiting therein mentioned.
6 Ann. c. 2. (I.) -	An act for the public registering of all deeds, conveyances, and wills that shall be made of any honors, manors, lands, tenements, or hereditaments.	So much of section 17. as relates to any forging or counterfeiting therein mentioned.
6 Ann. c. 35. -	An act for the public registering of all deeds, conveyances, wills, and other incumbrances that shall be made of or that may affect any honors, manors, lands, tenements, or hereditaments within the east riding of the county of York, or the town and county of the town of Kingston-upon-Hull, after the 29th day of September 1708 ; and for the rendering the register in the west riding more complete.	So much of section 26. as relates to any forging or counterfeiting therein mentioned.
7 Ann. c. 20. -	An act for the public registering of deeds, conveyances, and wills, and other incumbrances, which shall be made of, or that may affect honors, manors, lands, tenements, or hereditaments within the county of Middlesex after the 29th day of September 1709.	So much of section 15. as relates to any forging or counterfeiting therein mentioned.
8 Ann. c. 10. (I.)	An act for amending an act intituled "An act for the public registering of all deeds, conveyances, and wills that shall be made of any honors, manors, lands, tenements, or hereditaments."	So much of section 4. as relates to any forging or counterfeiting therein mentioned.

References to act.	Title of act.	Extent of repeal.
8 Geo. 1. c. 15. (I.)	An act for explaining and amending two several acts in relation to the public registering of deeds, conveyances, and wills.	So much of section 4. as relates to any forging or counterfeiting therein mentioned.
11 Geo. 1. c. 9. -	An act for continuing the several annuities of £88,751 7s. 10½d. and £100,000 to the Bank of England until Midsummer 1727, and from thence for reducing the same to £71,001 2s. 3½d. and £80,000, redeemable by parliament, and for preventing the uttering of forged, counterfeited, or erased bank bills or notes.	Section 6.
14 Geo. 1. c. 32. -	An act for better securing the monies and effects of the suitors of the court of Chancery, and to prevent the counterfeiting of East India bonds, and indorsements thereon; as likewise indorsements on South Sea bonds.	Section 9.
3 Geo. 2. c. 4. (I.)	An act for the more effectual preventing and further punishment of forgery, perjury, and subornation of perjury, and to make it felony to steal bonds, notes, or other securities for payment of money, and for the more effectual transporting felons, vagabonds, and others.	Section 1.
8 Geo. 2. c. 6. -	An act for the public registering of all deeds, conveyances, wills, and other incumbrances that shall be made of or that may affect any honors, manors, lands, tenements, or hereditaments within the north riding of the county of York, after the 29th day of September 1736.	So much of section 31. as relates to any forging or counterfeiting therein mentioned.
15 Geo. c. 13. -	An act for establishing an agreement with the governor and company of the bank of England for advancing the sum of £1,600,000 towards the supply for the service of the year 1742.	Section 12.
17 Geo. 2. c. 11. (I.)	An act for the amendment of the law in relation to forgery, and the salvage of ships and goods stranded.	Section 1.
13 & 14 Geo. 3. c. 14. (I.)	An act for the more effectual preventing the forging or altering the acceptance or indorsement of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money or delivery of goods.	The whole.
21 & 22 Geo. 3. c. 16. (I.)	An act for establishing a bank by the name of the governors and company of the bank of Ireland.	Sections 15 and 16.

References to act.	Title of act.	Extent of repeal.
23 & 24 Geo. 3. c. 22. (I.)	An act for better securing the monies and effects of the suitors of the court of Chancery and the court of Exchequer by depositing the same in the national bank; and to prevent the forging and counterfeiting any draft, order, or other voucher for the payment or delivery of such money or effects; and for other purposes.	Section 22.
25 Geo. 3. c. 37. (I.)	An act to explain and amend an act passed in the 13th and 14th years of the reign of His present Majesty king George the third, intituled "An act for the more effectual preventing the forging or altering the acceptance or indorsement of bills of exchange, or the numbers or principal sums of accountable receipts for notes, bills, or other securities for payment of money, or warrants or orders for payment of money, or delivery of goods."	The whole.
27 Geo. 3. c. 15. (I.)	An act to prevent tumultuous risings and assemblies, and for the more effectual punishment of persons guilty of outrage, riot, and illegal combination, and of administering and taking unlawful oaths.	Section 5.
35 Geo. 3. c. 66. -	An act for making part of certain principal sums or stock and annuities raised or created or to be raised or created by the parliament of the kingdom of Ireland on loans for the use of the government of that kingdom transferrable, and the dividends on such stock and annuities payable at the bank of England; and for the better security of the proprietors of such stocks and annuities, and of the governor and company of the bank of England.	Section 3 and all the subsequent sections.
37 Geo. 3. c. 26. (I.)	An act to prevent the forging of notes and bills of the governor and company of the bank of Ireland, and to prevent the obtaining of false credit, and the committing of frauds by the imitation of notes or bills of the said governor and company.	The whole.
37 Geo. 3. c. 46. -	An act for making certain annuities created by the parliament of the kingdom of Ireland transferable, and the dividends thereon payable at the bank of England; and for the better security of the proprietors of such annuities, and of the governor and company of the bank of England.	Section 3. and all the subsequent sections.
37 Geo. 3. c. 54. (I.)	An act to enable the proprietors of debentures issued by government to convert them into stock transferable at the bank of Ireland.	Section 11. and all the subsequent sections.

References to act.	Title of act.	Extent of repeal.
37 Geo. 3. c. 126.	An act to prevent the counterfeiting any copper coin in this realm made or to be made current by proclamation, or any foreign gold or silver coin ; and to prevent the bringing into this realm or uttering any counterfeit foreign gold or silver coin.	The whole, both as to England and Scotland, except section 1.
38 Geo. 3. c. 53. (I.)	An act for the more effectually preventing the forging the notes and bills of the governor and company of the bank of Ireland, and the circulation of forged notes and bills of the said governor and company.	The whole.
39 Geo. 3. c. 63. (I.)	An act for the more effectually preventing the forging of bills of exchange and promissory notes, or any acceptance, assignment, or indorsement thereof, or any acquittance or receipt for money or goods ; and also for preventing the forging of the promissory notes of the governor and company of the bank of England commonly called bank notes, and the bills of exchange of the said governor and company called bank post bills.	The whole, except the last section.
40 Geo. 3. c. 96. (I.)	An act to revive, amend, continue, or make perpetual certain temporary statutes.	So much of section 5. as perpetuates the part of the 27 Geo. 3. c. 15. hereby repealed.
41 Geo. 3. c. 57. -	An act for the better prevention of the forgery of the notes and bills of exchange of persons carrying on the business of bankers.	The whole.
43 Geo. 3. c. 139.	An act for preventing the forging and counterfeiting of foreign bills of exchange, and of foreign promissory notes and orders for the payment of money ; and for preventing the counterfeiting of foreign copper money.	Sections 1. and 2. as to Ireland, and the rest of the act as to the whole United Kingdom.
48 Geo. 3. c. 1. -	An act for regulating the issuing and paying off of exchequer bills.	Section 9.
49 Geo. 3. c. 13. (I.)	An act for the more effectual preventing the forging of bank notes, bank bills of exchange, and bank post bills, and the negotiation of forged and counterfeited bank notes, bank bills of exchange, and bank post bills of the governor and company of the bank of Ireland.	The whole.
1 Geo. 4. c. 4. -	An act for punishing criminally drivers of stage coaches and carriages for accidents occasioned by their wilful misconduct.	The whole.
1 Geo. 4. c. 92. -	An act for the prevention of forging and counterfeiting of bank notes.	Sections 1. and 2.

References to act.	Title of act.	Extent of repeal.
3 Geo. 4. c. 116. -	An act for the more convenient and effectual registering in Ireland deeds executed in Great Britain.	So much of section 7. as relates to any forging or counterfeiting therein mentioned.
4 Geo. 4. c. 54. -	An act for allowing the benefit of clergy to persons convicted of certain felonies, under two acts of the ninth year of King George the First and of the 27th year of King George the Second ; for making better provision for the punishment of persons guilty of sending or delivering threatening letters ; and of assaults with intent to commit robbery.	The whole.
5 Geo. 4. c. 25.(I.)	An act to repeal so much of an act passed in the ninth year of the reign of King William the Third as relates to burials in suppressed monasteries, abbeys, or convents in Ireland ; and to make further provision with respect to the burial in Ireland of persons dissenting from the established church.	Section 5.
7 Geo. 4. c. 64. -	An act for improving the administration of criminal justice in England.	Sections 9, 10, and 11.
7 & 8 Geo. 4. c. 18.	An act to prohibit the setting spring guns, man traps, and other engines calculated to destroy human life or inflict grievous bodily harm.	The whole.
7 & 8 Geo. 4. c. 29.	An act for consolidating and amending the laws of England relative to larceny and other offences connected therewith.	The whole, as to the whole United Kingdom.
7 & 8 Geo. 4. c. 30.	An act for consolidating and amending the laws in England relative to malicious injuries to property.	The whole.
9 Geo. 4. c. 31. -	An act for consolidating and amending the statutes in England relative to offences against the person.	The whole.
9 Geo. 4. c. 54.(I.)	An act for improving the administration of justice in criminal cases in Ireland.	Sections 23, 24, and 25.
9 Geo. 4. c. 55.(I.)	An act for consolidating and amending the laws in Ireland relative to larceny and other offences connected therewith.	The whole, as to the whole United Kingdom.
9 Geo. 4. c. 56.(I.)	An act for consolidating and amending the laws in Ireland relative to malicious injuries to property.	The whole.
10 Geo. 4. c. 34.(I.)	An act for consolidating and amending the statutes in Ireland relating to offences against the person.	The whole.
11 Geo. 4. & 1 W.4. c. 66.	An act for reducing into one act all such forgeries as shall henceforth be punished with death, and for otherwise amending the laws relative to forgery.	The whole, except section 21.

References to act.	Title of act.	Extent of repeal.
2 & 3 W. 4. c. 4. -	An act for more effectually preventing embezzlements by persons employed in the public service of His Majesty.	The whole.
2 & 3 W. 4. c. 34.	An act for consolidating and amending the laws against offences relating to the coin.	The whole, as to the whole United Kingdom.
2 & 3 W. 4. c. 75.	An act for regulating schools of anatomy.	Section 16.
2 & 3 W. 4. c. 123.	An act for abolishing the punishment of death in certain cases of forgery.	The whole.
3 & 4 W. 4. c. 44.	An act to repeal so much of two acts of the seventh and eighth years and the ninth year of King George the Fourth as inflicts the punishment of death upon persons breaking, entering, and stealing in a dwelling house; also for giving power to the judges to add to the punishment of transportation for life in certain cases of forgery, and in certain other cases.	The whole.
4 & 5 W. 4. c. 26.	An act to abolish the practice of hanging the bodies of criminals in chains.	Section 2.
5 & 6 W. 4. c. 34.(I)	An act to amend two clerical errors contained in an act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An act for consolidating and amending the laws in Ireland relative to larceny and other offences connected therewith."	The whole.
5 & 6 W. 4. c. 81.	An act for abolishing capital punishments in cases of letter stealing and sacrilege.	So much as relates to the punishment of any person who shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel shall break out of the same, and to principals in the second degree and accessories in such offences.
6 & 7 W. 4. c. 4. -	An act to amend the act of the last session for abolishing capital punishments in cases of letter stealing and sacrilege.	So much as alters and amends that part of the 5 & 6 W. 4. c. 81. which is hereby repealed.
6 & 7 W. 4. c. 30.	An act to repeal so much of two acts of the ninth and 10th years of King George the Fourth as directs the period of the execution and the prison discipline of persons convicted of the crime of murder.	The whole.

References to act.	Title of act.	Extent of repeal.
6 & 7 W. 4. c. 86.	An act for registering births, deaths, and marriages in England.	Section 43.
7 W. 4. & 1 Vict. c. 77.	An act to assimilate the practice of the Central Criminal Court to other courts of criminal judicature within the kingdom of England and Wales with respect to offenders liable to the punishment of death.	So much of section 3 as empowers the court to direct sentence of death to be recorded in cases of murder.
7 W. 4. & 1 Vict. c. 84.	An act to abolish the punishment of death in cases of forgery.	So much of sections 1 and 3 as relates to the forging, altering, offering, uttering, disposing of, or putting off any will, testament, codicil, or testamentary writing, or any power of attorney, or other authority therein mentioned, and to principals in the second degree and accessories before the fact in such offences, and so much of sections 2 and 3 as relates to the punishment of any offence created by or formerly punishable under any enactment in this schedule before mentioned and hereby repealed.
W. 4. & 1 Vict. c. 85.	An act to amend the laws relating to offences against the person.	The whole.
W. 4. & 1 Vict. c. 86.	An act to amend the laws relating to burglary and stealing in a dwelling house.	The whole.
7 W. 4. & 1 Vict. c. 87.	An act to amend the laws relating to robbery and stealing from the person.	The whole.
7 W. 4. & 1 Vict. c. 89.	An act to amend the laws relating to burning or destroying buildings and ships.	The whole.
7 W. 4. & 1 Vict. c. 90.	An act to amend the law relative to offences punishable by transportation for life.	The whole, except section 5.
2 & 3 Vict. c. 58.	An act to make further provision for the administration of justice, and for improving the practice and proceedings in the courts of the stannaries of Cornwall, and for the prevention of frauds by workmen employed in the mines within the county of Cornwall.	Section 10.
3 & 4 Vict. c. 97.	An act for regulating railways	Section 15. N N 4

Reference to act.	Title of act.	Extent of repeal.
4 & 5 Vict. c. 56.	An act for taking away the punishment of death in certain cases, and substituting other punishments in lieu thereof.	Sections 2 and 3, and so much of section 1 as relates to embezzlements by officers or servants of the bank of England.
5 & 6 Vict. c. 28. (I.)	An act to assimilate the law in Ireland as to the punishment of death to the law in England; to abolish the punishment of death in certain cases in Ireland, and to substitute other punishments in lieu thereof.	Sections 4, 13, 14, and 15, and so much of section 7 as alters the punishment contained in any enactment hereby repealed, and so much of section 18. as relates to principals in the second degree and accessories before the fact to any offence mentioned in the said sections 4, 13, 14, and 15, or in the said part of the said section 18. hereby repealed.
5 & 6 Vict. c. 39.	An act to amend the law relating to advances bonâ fide made to agents intrusted with goods.	Section 6.
5 & 6 Vict. c. 66.	An act for further regulating the preparation and issue of exchequer bills.	Sections 9, and 10.
5 & 6 Vict. c. 106. (I.)	An act to regulate the Irish fisheries -	Sections 11. and 12.
6 & 7 Vict. c. 10.	An act for removing doubts as to the punishment which may be awarded under the provisions of an act of the 4th and 5th years of Her present Majesty, "for taking away the punishment of death in certain cases," for certain offences therein specified.	The whole.
7 & 8 Vict. c. 62.	An act to amend the law as to burning farm buildings.	The whole.
7 & 8 Vict. c. 81. (I.)	An act for marriages in Ireland, and for registering such marriages.	Section 75.
8 & 9 Vict. c. 44.	An act for the better protection of works of art and scientific and literary productions.	The whole.
8 & 9 Vict. c. 47.	An act for the further prevention of the offence of dog stealing.	The whole.
8 & 9 Vict. c. 108. (I.)	An act for the further amendment of an act of the 6th year of Her present Majesty for regulating the Irish fisheries.	Section 18.
9 & 10 Vict. c. 25.	An act for preventing malicious injuries to persons and property by fire or by explosive or destructive substances.	The whole.
10 & 11 Vict. c. 66.	An act for extending the provisions of the law respecting threatening letters, and accusing parties with a view to extort money.	The whole.

References to act.	Title of act.	Extent of repeal.
11 & 12 Vict. c. 46.	An act for the removal of defects in the administration of criminal justice.	Sections 1, 2, and 3.
12 & 13 Vict. c. 11.	An act to amend the laws of England and Ireland relative to larceny and other offences connected therewith.	The whole.
12 & 13 Vict. c. 76.	An act to protect women from fraudulent practices for procuring their defilement.	The whole.
13 & 14 Vict. c. 72. (I.)	An act to amend the laws for the registration of assurances of lands in Ireland.	Section 62.
13 & 14 Vict. c. 88. (I.)	An act to amend the law relating to engines used in the rivers and on the seacoasts of Ireland for the taking of fish.	Section 42.
14 & 15 Vict. c. 11.	An act for the better protection of persons under the care and control of others as apprentices or servants; and to enable the guardians and overseers of the poor to institute and conduct prosecutions in certain cases.	Sections 1, 2, 6, and 7.
14 & 15 Vict. c. 19.	An act for the better prevention of offences.	Sections 1, 2, 3, 4, 6, 7, 8, and 9.
14 & 15 Vict. c. 92. (I.)	An act to consolidate and amend the acts relating to certain offences and other matters, as to which justices of the peace exercise summary jurisdiction in Ireland.	Sections 2, 3, 4, and 5.
14 & 15 Vict. c. 100.	An act for further improving the administration of criminal justice.	Sections 4, 6, 8, 11, 13, 14, 15, 16, 17, and so much of section 5. as relates to forging or uttering any instrument, and so much of section 29. as relates to any indecent assault, or any assault occasioning actual bodily harm or any attempt to have carnal knowledge of a girl under 12 years of age.
16 & 17 Vict. c. 23.	An act for redeeming or commuting the annuity payable to the South Sea Company, and certain annuities of £3 per centum per annum, and for creating new annuities of £3 10s. per centum per annum, and £2 10s. per centum per annum, and issuing exchequer bonds.	Section 41.
16 & 17 Vict. c. 30.	An act for the better prevention and punishment of aggravated assaults upon women and children, and for preventing delay and expense in the administration of certain parts of the criminal law	Section 1.

References to act.	Title of act.	Extent of repeal.
16 & 17 Vict. c. 99.	An act to substitute in certain cases other punishment in lieu of transportation.	Section 12.
16 & 17 Vict. c. 102.	An act to prevent the defacing of the current coin of the realm.	The whole, as to the whole United Kingdom.
16 & 17 Vict. c. 113.	An act to amend the procedure in the superior courts of common law in Ireland.	So much of section 71. as relates to any action which shall be commenced against any person for anything done in pursuance of any of the acts of this session for consolidating and amending the statute law of England and Ireland relating to larceny, malicious injuries, and coin.
16 & 17 Vict. c. 132.	An act to extend the provisions of an act of the present session for redeeming or commuting the annuity payable to the South Sea Company and certain annuities of £3 per centum per annum, and to provide for payments to be made under the said act.	Sections 10 and 11.
17 & 18 Vict. c. 33.	An act to place public statues within the metropolitan police district under the control of the commissioners of Her Majesty's works and public buildings.	Section 6.
20 & 21 Vict. c. 54.	An act to make better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property.	The whole.
21 & 22 Vict. c. 3.	An act for enabling the East India Company to raise money in the United Kingdom for the service of the government of India.	Section 10.
21 & 22 Vict. c. 47.	An act to amend the law of false pretences.	The whole.
21 & 22 Vict. c. 79.	An act to amend the law relating to cheques or drafts on bankers.	Section 3.
21 & 22 Vict. c. 106.	An act for the better government of India.	Section 50.
22 Vict. c. 11. -	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India.	Section 10.
22 & 23 Vict. c. 32.	An act to amend the law concerning the police in counties and boroughs in England and Wales.	Section 25.

References to act.	Title of act.	Extent of repeal.
22 & 23 Vict. c. 39.	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India.	Section 13.
23 & 24 Vict. c. 8.	An act to amend the law relating to the unlawful administering of poison.	The whole.
23 & 24 Vict. c. 29.	An act to amend an act relating to malicious injuries to property.	The whole.
23 & 24 Vict. c. 130.	An act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the government of India.	Section 13.

I N D E X.

	Page
ACCESSORIES AND ABETTERS (Statute Law Consolidation, 24 & 25 Vict. c. 94.):	
accessories before the fact may be tried and punished as principals -	530
accessories before the fact may be indicted as such, or as substantive felons -	530
accessories after the fact may be indicted as such, or as substantive felons -	530
punishment of accessories after the fact -	530
accessory may be prosecuted after principal has been convicted, but not attained -	530
several accessories may be included in same indictment, although principal not included -	530
where accessories may be tried -	530
abettors in misdemeanors may be tried, &c. as principals -	531
offences within jurisdiction of Admiralty -	531
ACCUSING, OR THREATENING TO ACCUSE, OF CRIME, WITH INTENT TO EXTORT MONEY. See LARCENY.	
ACTION :	
against persons for acts done in pursuance of Metropolitan Police Force and Police Courts Acts -	39, 57
against constables, &c., for acts done in obedience to any warrant -	40, 41
ADVERTISEMENT :	
not to be carried about so as to be an obstruction or annoyance ; penalty	116, 117
AMBASSADORS. See EXPENSES OF POLICE.	
ANIMAL :	
penalty for exposing for show or sale, feeding, &c. in any thoroughfare, &c. to the annoyance of inhabitants -	26
penalty for suffering to be at large in a rabid state, &c. -	33
policeman may destroy, suspected to be in a rabid state, &c. -	33
<i>See CRUELTY TO ANIMALS.</i>	
ANNOYANCE TO PASSENGERS. See the particular heads of annoyance.	
APPEAL :	
to general or quarter sessions from summary conviction, &c. by Metropolitan Police Magistrate, in certain cases -	56
APPREHENSION WITHOUT WARRANT :	
by owner of property with respect to which offence committed, or his servant, &c. -	34, 474
by any person to whom property suspected to be stolen, &c. is offered to be sold, &c. -	34, 227, 450
by any person of a vagrant -	125
by any person of persons committing indictable offences in the night, and certain offences punishable on indictment or summary conviction -	335, 450, 509
<i>See CATTLE ; CRUELTY TO ANIMALS ; HACKNEY CARRIAGE ; HIGHWAYS ; METROPOLIS LOCAL MANAGEMENT ; MILITIA ; NAVAL COAST VOLUNTEERS ; NAVY ; POLICEMEN, METROPOLITAN ; STAGE CARRIAGE ; STAGE CARRIAGE, METROPOLITAN ; HIGHWAYS ; TURNPIKE ROADS, &c.</i>	
APPREHENSION OF OFFENDERS FOR INDICTABLE OFFENCES :	
backing of English warrants in Ireland, and vice versa -	343
backing of English warrants in the Channel Islands and Isle of Man, and vice versa -	344
backing of English or Irish warrants in Scotland, and vice versa -	345, 346

APPREHENSION OF OFFENDERS (Summary proceedings) :	Page
backing of warrants - - - - -	347
APPREHENSION OF OFFENDERS (Indictable offences and summary proceedings) :	
provisions, for backing of warrants between England and Ireland, in the Petty Sessions (Ireland) Act, 1851 - - - - -	347-351
<i>See also</i> , the particular heads of offences, &c. in this Index.	
APPREHENSION OF OFFENDERS ESCAPING FROM OR TO THE COLONIES :	
apprehension in the United Kingdom of offenders escaping from the colonies - - - - -	352
apprehension of offenders escaping to the colonies - - - - -	352
committal of offender to gaol until sent back, &c. - - - - -	353
copies of depositions to be evidence - - - - -	353
offenders apprehended to be sent to place where offence committed - - - - -	353
offender not sent back within two months may be discharged - - - - -	354
persons apprehended and not indicted within six months, or not convicted, to be sent back to the place where apprehended - - - - -	354
expense of removal of offenders to United Kingdom - - - - -	355
proof of signature, &c. of the person issuing original warrant - - - - -	355
in what cases warrant to be endorsed for authorizing apprehension - - - - -	355
APPREHENSION OF OFFENDERS UNDER CONVENTION WITH FRANCE :	
certain offenders to be apprehended and committed on requisition of French ambassador - - - - -	357
copies of depositions to be evidence - - - - -	358
offenders to be delivered up - - - - -	358
after two months person apprehended may be discharged, if not conveyed out of Her Majesty's dominions - - - - -	359
continuance of Act authorizing apprehension (6 & 7 Vict. c. 75.) - - - - -	359
a metropolitan police magistrate may issue warrant for apprehension in any part of England ; and may commit on apprehension - - - - -	362
APPREHENSION OF OFFENDERS UNDER TREATY WITH UNITED STATES :	
certain offenders to be apprehended on requisition of the United States - - - - -	360
copies of the depositions to be evidence - - - - -	361
offenders to be delivered up - - - - -	361
after two months person apprehended may be discharged, if not conveyed out of Her Majesty's dominions - - - - -	361
continuance of Act authorizing apprehension (6 & 7 Vict. c. 76.) - - - - -	362
a metropolitan police magistrate may issue warrant for apprehension in any part of England ; and may commit on apprehension - - - - -	362
APPREHENSION OF SEAMEN DESERTING FROM FOREIGN SHIPS :	
Order in Council may declare that deserters from foreign merchant ships may be apprehended and given up - - - - -	363
upon publication of such Order in Council justices shall aid in recovering deserters from such ships - - - - -	363
penalty for harbouring such deserters - - - - -	364
Orders in Council to be published in "Gazette," and may be revoked or altered - - - - -	364
APPRENTICES AND SERVANTS, PROTECTION :	
register of servants supplied from workhouse - - - - -	335
such servants and pauper apprentices while under 16 to be visited - - - - -	335
provision as to servants and apprentices at a distance - - - - -	336
AREA :	
penalty for not sufficiently fencing - - - - -	32
penalty for leaving open, without sufficient light, after sunset - - - - -	32
<i>See</i> VAGRANT.	
ARSENIC, REGULATION OF SALE :	
on sale, particulars to be entered in a book - - - - -	394
restrictions on sale - - - - -	395

ARSENIC, REGULATION OF SALE—continued.		Page
provision for colouring - - - - -	-	395
penalty for breach of regulations - - - - -	-	395
saving for sale of arsenic in medicine or wholesale - - - - -	-	395
"arsenic" to include arsenious compounds - - - - -	-	395
ASSAULT :		
on any person with intent to resist, &c. lawful apprehension -	332, 335, 514, 520	
<i>See</i> POLICEMEN, METROPOLITAN.		
ASSISTANT COMMISSIONERS. <i>See</i> COMMISSIONERS OF POLICE, ASSISTANT.		
ASYLUMS FOR HOUSELESS POOR :		
formation of districts for, &c. - - - - -	-	144
who to be relieved in; mode of admission through intervention of constable; regulations as to persons admitted - - - - -	-	144-146
liabilities of persons received into; guardians, &c. not relieved from existing obligations - - - - -	-	146
AWNING. <i>See</i> PROJECTION.		
BANK. <i>See</i> WHARF.		
BEAR-BAITING, &c. :		
places kept for. <i>See</i> COMMISSIONERS OF POLICE; CRUELTY TO ANIMALS; PENALTIES.		
BEERHOUSES :		
power to sell beer by retail under licence for that purpose - - - - -	182, 191	
regulations as to grant and duration of licence - - - - -	182, 183, 191, 195, 196, 197	
certain particulars to be painted over door of person licensed; penalty for default - - - - -	-	183, 194
excise penalty for selling beer, &c. by retail without licence, or selling, &c. wine or spirits - - - - -	184, 193, 194, 204	note †
recovery and application of such penalty - - - - -	-	184
application of excise acts - - - - -	-	184
additional penalty on unlicensed persons selling beer, &c. to be sued for by peace officer - - - - -	-	199
proviso for partners; to what premises licence to extend - - - - -	-	184
power to order houses to be closed in case of riot, &c. - - - - -	-	184
licensed persons to use standard measures; penalty for default - - - - -	-	184
penalty on licensed person permitting drunkenness or disorderly conduct, or adulterating beer; penalty for selling after adjudication of disqualification - - - - -	-	185, 186
recovery of penalties, except for selling beer without licence - - - - -	-	186
appeal; costs - - - - -	-	187
power to order prosecution to be carried on by petty constable; expenses - - - - -	-	188
proceedings against sureties in default of payment of penalties - - - - -	-	188
penalties how enforced and applied - - - - -	-	188
power to county justices to act for liberties in certain cases - - - - -	-	188
form of conviction - - - - -	-	188
return of conviction to quarter sessions; evidence - - - - -	-	189
informality, &c. - - - - -	-	189
actions, &c. - - - - -	-	189
saving for universities, &c. - - - - -	-	189, 200
licences for selling cider and perry by retail; beer licences to extend to cider and perry - - - - -	-	189, 190
regulations as to grant of licences for sale of beer to be drunk on the premises - - - - -	-	191
person licensed to sell beer not to be drunk, &c. permitting drinking in other premises occupied by him - - - - -	-	191
to what persons provisions for billeting soldiers under Mutiny Act are to extend - - - - -	-	191
power for constables to enter; penalty for not admitting - - - - -	-	192

penalty for making or using false or forged certificate of character or rateability	-	-	-	-	-	Page 192, 197
licences for sale of beer to be drunk, &c. not to be granted without certificate of character; exception as to houses within the bills of mortality, &c.	-	-	-	-	-	192, 195
licences for sale of beer or cider not to authorize persons to hold licences for sale of wine, &c.; penalties for permitting to be drunk or having wine, &c. on the premises, &c.	-	-	-	-	-	193, 194, 198, 204 note †
what to be deemed a retailing of beer, &c.	-	-	-	-	-	194
penalties on persons licensed to sell beer, &c. for selling wine or spirits	-	-	-	-	-	194, 204 note †
service of summons or order	-	-	-	-	-	195
penalty on overseers refusing certificate of rateability	-	-	-	-	-	197
conviction of felony or of selling spirits without licence to disqualify from selling beer, &c. or holding licence for selling beer, &c.; penalty	-	-	-	-	-	197
provision in favour of widow, &c. of person licensed on death	-	-	-	-	-	197
entry to be made with the excise	-	-	-	-	-	198
power for excise officers to enter	-	-	-	-	-	198
provision as to houses in which beer is sold at 1½d. the quart	-	-	-	-	-	198 and note
hours for opening and closing houses; penalty	-	-	-	-	-	199-203
power to mitigate penalties	-	-	-	-	-	200
forfeiture of licence, in what cases	-	-	-	-	-	200
penalty on drunkards, &c. refusing to quit; power to constables to expel them	-	-	-	-	-	214
BEGGING. See IDLE AND DISORDERLY PERSON.						
BETTING HOUSE :						
declared a common nuisance	-	-	-	-	-	161
to be deemed a common gaming house within 8 & 9 Vict. c. 109.	-	-	-	-	-	162
penalties on owner or occupier, &c.	-	-	-	-	-	162
saving for stakes payable to winner of race, &c.	-	-	-	-	-	163
penalty on advertising, &c. betting house	-	-	-	-	-	163
levying of penalties, &c.; application of penalties; on neglect to prosecute summons justices may authorize some other person to prosecute	-	-	-	-	-	163
power for any justice to authorize search of suspected house, &c.	-	-	-	-	-	164
power for Commissioner of Police to authorize search of suspected house, &c.	-	-	-	-	-	164
appeal to quarter sessions; informality, &c.; tender of amends, &c.; notice of action, &c.	-	-	-	-	-	164, 165
BILL OF PARCELS. See MISDEMEANOR.						
BILLIARDS. See COMMON GAMING HOUSE.						
BLIND. See PROJECTION.						
BOATS :						
used on the Thames for sale of articles to seamen, &c. regulation of	-	-	-	-	-	15
<i>See VESSEL.</i>						
BONFIRE :						
penalty for making, in any thoroughfare, &c.	-	-	-	-	-	29, 278, 285
BOOK :						
penalty for selling, &c. in thoroughfare, &c. any profane, indecent, or obscene	-	-	-	-	-	28
BUILDING :						
penalty for affixing posting bill, &c. against, or otherwise defacing, &c.	-	-	-	-	-	28
<i>See METROPOLITAN BUILDINGS.</i>						
CANAL. See LARCENY ; MISDEMEANOR ; VAGRANT.						
CANNON :						
penalty for discharging near a dwelling house after warning	-	-	-	-	-	29

CARPET, &c. :	Page
penalty for beating, in any thoroughfare - - - -	31
CARRIAGE :	
penalty for repairing, in any thoroughfare - - - -	26
penalty for riding on, without holding reins, or being at a distance from - - - -	27
penalty for riding upon, without driver's consent - - - -	30
<i>See</i> CART ; CRUELTY TO ANIMALS ; HACKNEY CARRIAGE ; POLICEMEN, METROPOLITAN ; STAGE CARRIAGE ; STAGE CARRIAGE, METROPOLITAN.	
CARRIAGEWAY :	
penalty for exposing anything to sale upon, &c. - - - -	32
<i>See</i> HIGHWAYS ; THOROUGHFARES ; TURNPIKE ROADS.	
CART :	
name, &c. of owner to be painted on ; penalty for default, &c. - - - -	79, 99, 280, 281, 287, 288, 290
power for any person to seize, where without name, &c. - - - -	79
<i>See</i> CARRIAGE ; CRUELTY TO ANIMALS ; HIGHWAYS ; POLICEMEN, METROPOLITAN ; TURNPIKE ROADS.	
CASKS :	
penalty for cleansing, &c. in any thoroughfare - - - -	30
<i>See</i> MISDEMEANOR.	
CATTLE :	
Commissioners of Police may regulate driving of - - - -	24, 25
penalty for disobeying regulations, &c. - - - -	24, 25, 26-28
not to be driven in Islington on Sunday under a penalty ; apprehension of offenders - - - -	25, note †, 29
penalty for misbehaving in the driving of, &c. - - - -	27
penalty for pelting, &c. in any thoroughfare, &c. - - - -	27
penalty for turning loose in any thoroughfare, &c. - - - -	26
CELLAR :	
penalty for leaving open or defectively protected to the danger of passengers - - - -	32
CERTIORARI :	
taken away in proceedings under Metropolitan Police Force and Police Courts Acts - - - -	39, 56
CHEQUES, OBLITERATING CROSSING OF :	
crossing of cheque to be deemed a material part - - - -	337
persons obliterating, &c. crossing, with intent to defraud, guilty of felony - - - -	487
CHILDREN :	
of policemen, compassionate allowances to - - - -	8
CHRISTMAS DAY. <i>See</i> SUNDAY.	
CITY. <i>See</i> LONDON.	
COCK FIGHTING, &c. <i>See</i> COMMISSIONERS OF POLICE ; CRUELTY TO ANIMALS ; PENALTIES.	
COINAGE OFFENCES (Statute Law Consolidation, 24 & 25 Vict. c. 99.) :	
interpretation of terms ; what shall be possession - - - -	498
counterfeiting gold or silver coin - - - -	498
colouring counterfeit coin, &c. with intent &c. ; colouring or altering genuine coin with intent to make it pass for a higher coin - - - -	499
impairing gold or silver coin, with intent, &c. - - - -	499
unlawful possession of filings or clippings of gold or silver coin - - - -	500
buying or selling, &c. counterfeit gold or silver coin for lower value than its denomination - - - -	500
importing counterfeit coin from beyond seas - - - -	500
exporting counterfeit coin - - - -	500
uttering, accompanied by possession of other counterfeit coin, or followed by a second uttering - - - -	501

COINAGE OFFENCES (Statute Law Consolidation, 24 & 25 Vict. c. 99.)—*continued.*

having three or more pieces of counterfeit gold or silver coin in possession, &c. with intent, &c.	Page
second offence of uttering, &c. after a previous conviction	501
uttering foreign coin, &c. as current coin, with intent to defraud	502
counterfeiting, &c. copper coin, or making, &c. tools for counterfeiting copper coin	502
uttering base copper coin	503
defacing the coin by stamping words thereon	503
tender of coin so defaced not a legal tender, and penalty for uttering same	503
counterfeiting foreign gold and silver coin	503
bringing such counterfeit coin into United Kingdom	504
uttering such counterfeit coin; second offence	504
counterfeiting foreign coin other than gold and silver coin	505
having more than five pieces of counterfeit foreign coin in possession	505
making, mending, or having possession of coining tools	505
conveying tools or monies out of the mint without authority	506
coin suspected to be diminished or counterfeit may be cut, &c. by any person to whom it is tendered, &c.	506
provision for discovery and seizure of counterfeit coin and coining tools, &c.	507
venue, &c.	508
what to be sufficient proof of coin being counterfeit	508
where the offence of uttering, &c. counterfeit coin shall be complete	509
any person may apprehend any person committing any indictable offence against this act	509
conviction, &c. not to be quashed for informality, &c.	509
notice of action, &c.	509
trial of offences in Scotland	509
punishment of principals in the second degree and accessories	509
offences within jurisdiction of Admiralty	509
form of indictment for subsequent offence, &c.	510
fine, and sureties for keeping the peace; hard labour, &c.; summary proceedings	510
costs of prosecutions	510

COMMISSIONERS OF POLICE :

appointment, &c.	1
disqualification	1
to be justices for certain counties	1
oath	1
style	2
superannuation	3
to cause attendance of policemen at police and other criminal courts	13
may authorize superintendent with constables to enter any place kept for bear-baiting, cock-fighting, &c., and take persons into custody	23
See BETTING HOUSE; CATTLE; COMMON GAMING HOUSE; FAIRS; HACKNEY CARRIAGE; ROUTE; STAGE CARRIAGE, METROPOLITAN; STREETS; THEATRE.	

COMMISSIONER OF POLICE :

appointment, &c.	2, 64
duties	2, 64
salary	3

See COMMISSIONERS OF POLICE.

COMMISSIONERS OF POLICE, ASSISTANT :

appointment, &c.	2
disqualifications	3, 64
duties	2, 3, 64
salaries	3
superannuation	3

COMMON GAMING HOUSE :

Page

Commissioner of Police may authorize superintendent, with constables, to enter and search for and seize instruments of gaming, monies, &c., and take persons into custody	- 23, 152
power for superintendent to search for and seize instruments of gaming	153
monies, &c. seized in, to be paid to receiver	23
penalty on keeper of, &c.	23, 152, 159
penalty on any person found in, without lawful excuse	23
witnesses making full discovery, &c. freed from punishment	153, 160
grant, &c. of billiard licences	153
houses, &c. kept for public billiard tables, &c. (not being public houses) to be licensed, &c.; consequence of non-compliance with the law	154
penalties for offences against tenor of licence, &c.	154
times when public billiard, &c. playing is disallowed; consequence of non-compliance with the law	155
power for constables to enter at all times places where public billiard, &c. tables are kept; consequence of non-admission, &c.	156, 157
penalty on obstructing entry of constables into	157
obstructing entry of constables, &c., evidence of house being,	158
penalty on any person apprehended in, giving false name, &c.	158
proof of gaming for money not necessary in support of information for gaming in, &c.	24, 152
evidence of house being	151, 153, 162
evidence of gaming in	153, 158
power for justices, &c. to require persons apprehended to be sworn and give evidence	159
levying of penalties and costs; application of penalties	160
on neglect to prosecute summons, justices may authorize some other person to prosecute	160
appeal to quarter sessions, &c.; informality, &c.; tender of amends, &c.; notice of action, &c.	156, 160, 161

See BETTING HOUSES.

COMMON LODGING HOUSE :

interpretation of term	243
by whom common lodging house act to be executed; expenses; local authority	244
notice to register to be given to keepers of common lodging houses	244
register to be kept	244
all common lodging houses to be inspected, approved, and registered before being used	244, 247
power to local authority to make regulations respecting common lodging houses, and impose penalties for offences against them; recovery of such penalties	245
keeper to give certain notices when any person is ill of fever, &c.; removal of such persons, &c.	246, 248
officer of local authority to have free access at all times	246
provision as to cleansing	246
penalty for offences; recovery of penalties	246, 249
general powers of local authority, &c.	247
local authority may refuse to register without certificate of character	247
evidence of register	248
local authority may require owner or keeper to procure proper supply of water	248
keeper of common lodging house where beggars or vagrants are received to make certain reports to local authority if required	249
as to removal of nuisances	249, 265, 269
on conviction of third offence, keeper of common lodging house may be adjudged disqualified for a limited time	249

CORK :

penalty for burning, &c. in any thoroughfare	30
--	----

CONSTABLES.

penalty on publican, &c. for harbouring, while on duty	213
--	-----

See POLICEMEN, METROPOLITAN.

CONVICTION :	Page
form of, in Metropolitan Police Force and Police Courts Acts	- 39, 56, 60
CRIMINAL COURTS :	
policemen to attend at - - - - -	13
COSTS OF PROSECUTIONS. See EXPENSES OF PROSECUTIONS.	
CRIMINAL JUSTICE ADMINISTRATION :	
power to quarter sessions to declare recognizance to keep the peace or to be of good behaviour forfeited - - - - -	378
limitation of imprisonment for not entering into recognizance - - - - -	378
restriction on removal of indictments by certiorari and consequential provisions - - - - -	378
Secretary of State may issue his warrant for bringing up a prisoner to give evidence - - - - -	378
amendments may be made on trial of indictments - - - - -	408
person indicted for felony, &c. may be found guilty of attempt, &c. - - - - -	409
person tried for misdemeanor not to be acquitted if offence be felony, unless court so direct - - - - -	409
coin and bank notes may be described as money - - - - -	409
judge, &c. may direct prosecution for perjury - - - - -	409
indictments for perjury, what to set out - - - - -	409
evidence on trial for perjury, &c. - - - - -	409
venue in margin of indictment sufficient - - - - -	409
what defects shall not vitiate indictment - - - - -	409
when formal objections to indictments to be taken ; court may amend - - - - -	410
provision as to traversing indictments - - - - -	410
provision as to plea of autrefois convict or autrefois acquit - - - - -	410
interpretation of terms in 14 & 15 Vict. c. 100. - - - - -	410
power to convict for misdemeanor on indictment for feloniously cutting	344
See LARCENY, and other heads of criminal law ; MIDDLESEX.	
CRUELTY TO ANIMALS :	
penalty for cruelty to animals - - - - -	137
penalty for keeping, &c. places for fighting or baiting animals - - - - -	23, 138
compensation for damage done by cruelly beating, &c. any animal - - - - -	138
penalty on person impounding animal not supplying food and water - - - - -	138
power for any person to supply food and water - - - - -	138
remedy for recovery of expenses of food and water supplied - - - - -	139, 144
penalty for improperly conveying animals - - - - -	140
power for constables to apprehend offender without warrant - - - - -	140
limitation of time for complaints ; summary determination - - - - -	141
service of summons - - - - -	141
warrant in the first instance - - - - -	141
witnesses - - - - -	141
imprisonment for enforcing penalty, or in lieu of penalty - - - - -	141
power for constable in apprehension of any person to seize any vehicle &c. in his charge ; how same to be dealt with - - - - -	141
penalty for obstructing, &c. constable or pound keeper - - - - -	141
application of penalties - - - - -	142
proceeding against proprietor of hackney or stage carriage, or owner of cart, &c., to compel production of driver to answer complaint ; remedy of proprietor or owner against driver or conductor - - - - -	142
form of conviction ; transmission to quarter sessions ; appeal ; informality, &c. ; actions - - - - -	143
interpretation of terms in 12 & 13 Vict. c. 92. and 17 & 18 Vict. c. 60. 143, 144	
CUSTOMS BOATS, CUTTING ADRIFT :	
penalty for cutting adrift boats belonging to the Customs - - - - -	394
DAMAGE. See HURT.	
DEEDS, &c.	
inducing persons by violence or threat to execute, &c., with intent to defraud - - - - -	431
inducing person by false pretence to execute, &c., with intent to defraud - - - - -	446

DESERTED PREMISES :	Page
giving possession of, by police magistrates - - - -	61
See LANDLORD.	
DESSERTION :	
of wife or child. See ROGUE AND VAGABOND; WOMEN DESERTED BY THEIR HUSBANDS.	
DISTRESS :	
unlawful, irregular, or excessive, police magistrate may give redress for, in certain cases - - - -	51
DOCK. See LARCENY; MISDEMEANOR; VAGRANT.	
Dog :	
penalty for suffering to be at large any unmuzzled ferocious - - - -	26
penalty for using, in drawing cart, &c. - - - -	- 29, 144
penalty for suffering to be at large in a rabid state, &c. - - - -	33
policeman may destroy, suspected to be in a rabid state, &c. - - - -	33
See CRUELTY TO ANIMALS.	
Door :	
penalty for wantonly knocking at, - - - -	29
DOOR-BELL :	
penalty for wantonly ringing - - - -	29
DOUBLE COSTS, &c.	
repeal of provisions giving double and treble costs - - - -	413
repeal of provisions in local and personal acts allowing general issue - - - -	413
uniformity of notice of action - - - -	413
general limitation of actions under local and personal acts - - - -	414
DRIVING :	
furiously, penalty for, - - - -	27, 78, 90, 106, 282, 519
DRUNKARD :	
penalty on, for riotous or indecent behaviour in any thoroughfare - - - -	30, 214
penalty on, for refusing to quit public houses, &c. - - - -	214
EXPENSES OF POLICE :	
warrants for sums required for - - - -	10
sums levied to be paid into the Bank - - - -	10
rating of landlords for houses occupied by ambassadors, &c. - - - -	10
inspection of county rates - - - -	10
accounts to be laid before parliament - - - -	10
extra-parochial places, &c. - - - -	10
issue of public money towards - - - -	11, 12
certain fees received at police courts to be applied towards - - - -	56
EXPENSES OF POLICE COURTS. See POLICE COURTS.	
EXPENSES OF PROSECUTIONS, &c.	
power to allow costs of prosecutions for offences against 14 & 15 Vict. c. 19. - - - -	335
power to order payment of expenses of prosecutions in cases of felony; allowance to persons attending on recognizance, where no bill preferred - - - -	337, 338
power to order payment of expenses of prosecutions in certain cases of misdemeanor; allowance to persons attending on recognizance where no bill preferred - - - -	338, 339, 341
order for payment how made out and paid - - - -	239
power to order payment of expenses of prosecutions for concealing birth of children - - - -	340
order for payment to be as in cases of felony - - - -	341
payment of expenses in prosecutions in court of Admiralty - - - -	339

EXPENSES OF PROSECUTIONS, &c.—continued.		Page
power to order compensation to those who have been active in apprehension of certain offenders	- - - - -	339, 342
payment of such orders, &c.	- - - - -	340
power to order compensation to family of person killed in attempting to take certain offenders	- - - - -	340
costs to parties bound to prosecute, &c. for common assaults	- - - - -	342
regulations as to costs, &c. to be made by Secretary of State	- - - - -	342
expenses and compensations to be ascertained according to such regulations, &c. ; saving for payments in respect of extraordinary courage, &c.	- - - - -	342
allowance of costs on prosecution for misdemeanors under the acts concerning larceny, malicious injuries to property, forgery, offences against the person	- - - - -	454, 475, 497, 530
allowance of costs of prosecution for coinage offences	- - - - -	510
- See LARCENY, SUMMARY JURISDICTION ; VAGRANT.		
EXPOSURE :		
of obscene print, &c.	} See ROGUE AND VAGABOND.	
of the person		
of wounds, &c.		
of children		517
FAIRS :		
hours for holding	- - - - -	19
persons holding, or being in and not quitting, &c. during forbidden hours, may be taken into custody	- - - - -	19
penalties on such persons	- - - - -	19
lawfulness of, may be inquired into by direction of Commissioners of Police	- - - - -	19
notices to be given by such Commissioners where fair declared unlawful if owner, &c. of fair enter into recognizance to abide judgment of Queen's Bench, Commissioners to forbear giving notices	- - - - -	20
booths, &c. for unlawful fair may be removed, and persons pitching same, &c., or resorting to such fairs with shows, &c., taken into custody	- - - - -	20
penalties on such persons.	- - - - -	20
FEES, &c. :		
justices, &c. restrained from taking, except in certain cases, in any part for which a police court is established	- - - - -	53
to be taken in police courts	- - - - -	54, 58
accounts and application of	- - - - -	56
power to justices to remit for poverty, &c. where clerks paid by salaries	- - - - -	342
FINSBURY :		
boundaries of parliamentary borough of	- - - - -	24 note †
FIRE :		
constables and beadles to aid in extinguishment of, &c.	- - - - -	264
FIREARM :		
penalty for discharging in any thoroughfare, &c.	- - - - -	29, 278
- See ROGUE AND VAGABOND.		
FIREWORK :		
penalty for setting fire to, &c., in any thoroughfare, &c.	- - - - -	29, 278, 285, 386
- See GUNPOWDER, &c.		
FOOTWAY :		
penalty for leading any animal or drawing any carriage, truck, &c. upon	- - - - -	27, 277, 284
penalty for rolling any cask, &c. upon	- - - - -	27
penalty on occupier, &c. for not keeping cleansed	- - - - -	32
penalty for exposing anything to sale upon, &c.	- - - - -	32
- See HIGHWAYS ; THOROUGHFARE.		

FORGERY (Statute Law Consolidation, 24 & 25 Vict. c. 98.) :	Page
forging the great seal, privy seal, &c. - - - - -	475
forging transfer of certain stock, or power of attorney relating thereto -	476
personating owner of certain stock, and transferring or endeavouring to transfer, or receiving or endeavouring to receive the dividends -	477
forging attestation to power of attorney for transfer of stock, &c. -	477
making false entries, &c. in the books of the public funds -	477
clerks of the Bank of England or Ireland making out false dividend warrants - - - - -	478
forging an East India bond - - - - -	478
forging exchequer bills, bonds, or debentures, &c. - - - - -	479
making plates, &c. in imitation of those used for exchequer bills, &c. -	479
making paper in imitation of that used for exchequer bills, &c. -	479
having in possession paper, plates, or dies to be used for exchequer bills, &c. - - - - -	480
forging a bank note, &c. - - - - -	480
purchasing or receiving or having forged bank notes - - - - -	481
making or having mould for making paper of certain descriptions, or selling, &c. such paper, &c. - - - - -	481
proviso as to paper used for bills of exchange, &c. - - - - -	482
engraving or having any plate, &c. for making notes of Bank of England or Ireland or other banks, or uttering or having paper upon which a blank bank note, &c. is printed - - - - -	482
engraving on a plate, &c. any word, number, or device resembling part of a bank note or bill, or using or having any such plate, &c. or uttering or having any paper on which any such word, &c. is impressed - - - - -	483
making or having mould for making paper with the name of any banker, or making or having such paper - - - - -	484
engraving plates for foreign bills, notes, &c., or using or having such plates, or uttering, &c. paper on which any part of such bill, note, &c. is printed - - - - -	485
forging deeds, bonds, &c. - - - - -	485
forging wills - - - - -	486
forging bills of exchange or promissory notes - - - - -	486
forging orders, receipts, &c. for money, goods, &c. - - - - -	486
making accepting, &c. any bill, note, &c. by procuration, without lawful authority, or uttering any such bill, note, &c. so made, accepted, &c., with intent to defraud - - - - -	487
obliterating, &c. crossings on cheques - - - - -	487
forging debentures - - - - -	487
forging proceedings of courts of record or courts of equity, &c. -	488
forging copies or certificates of record, process of courts not of record, &c., and using forged process - - - - -	488
forging instruments made evidence by act of parliament - - - - -	489
forging court rolls - - - - -	489
forgery as to the registry of deeds - - - - -	489
forging orders of justices, recognizances, affidavits, &c. - - - - -	490
forging name of accountant general, &c. of Court of Chancery in England or Ireland, or of any judge of the Landed Estates Court in Ireland, &c. - - - - -	490
acknowledging recognizance, bail, cognovit, &c. in the name of another -	491
forging marriage licence or certificate - - - - -	491
forging registers of births, baptisms, marriages, deaths, or burials, &c. -	491
making false entries in copies of register sent to registrar, &c. - -	492
demanding, &c. property upon forged instruments - - - - -	492
forging any instrument, however designated, which is in law a will, bill of exchange, &c. - - - - -	493
forging, &c. in England or Ireland documents purporting to be made, or actually made, out of England and Ireland; forging, &c. in England or Ireland bills of exchange, &c. purporting to be payable out of England or Ireland - - - - -	493

FORGERY (Statute Law Consolidation, 24 & 25 Vict. c. 98.)— <i>continued.</i>	Page
forgers, &c. may be tried in the county where they are apprehended or are in custody	494
description of instruments in indictments for forgery and in indictments for engraving, &c.	495
intent to defraud particular persons need not be alleged or proved	495
interpretation as to criminal possession	495
search for paper or implements employed in forgery, and for forged instruments	495
other punishments substituted for those of 5 Eliz. c. 14., which have been adopted in other acts	496
general provision as to forgeries which were capital before 1 W. 4. c. 66., and are not otherwise punishable under this act	496
principals in the second degree and accessories; abettors in misdemeanors; offences within the jurisdiction of the Admiralty; fine and sureties for keeping the peace; hard labour, &c.; costs	497
FORTUNE TELLING. See ROGUE AND VAGABOND.	
FREE VINTNERS:	
selling foreign wine by retail within Metropolitan Police District, to be drunk on the premises, subject to certain provisions	21
GAME:	
penalty for playing at any, in any thoroughfare, &c., to annoyance of inhabitants or passengers	29, 277, 285
cheating at any, and thereby winning money, &c., to be deemed obtaining money by false pretence	156
GAME, PREVENTION OF PERSONS GOING ARMED BY NIGHT FOR DESTRUCTION OF:	
punishment of persons taking or destroying game or rabbits by night	331, 334
power for owners or occupiers of land, &c. or their servants to apprehend offenders; offenders assaulting or offering violence guilty of misdemeanor	332
power to issue warrant for apprehension of offenders	333
limitation of time for proceeding under 9 Geo. 4. c. 69.	333
form of conviction; appeal to general or quarter sessions; no certiorari, &c.; convictions to be returned to quarter sessions	333
three or more persons armed, entering land for taking or destroying game, &c., guilty of a misdemeanor	333
"night" defined	333
"game" defined	334
GAMING:	
contracts by way of, void	156
GAMING HOUSE. See COMMON GAMING HOUSE.	
GARDEN, PUBLIC. See PARK.	
GOOD FRIDAY. See SUNDAY.	
GOODS:	
unlawfully detained, order for delivery of, may be made by police magistrate	52
See PAWNBROKER; STOLEN GOODS, &c.	
GUNPOWDER, &c. MAKING, &c.:	
commencement of 23 & 24 Vict. c. 139.	383
regulations concerning manufacturers of gunpowder	383
regulations as to the making of loaded percussion caps, and the making and keeping of ammunition, &c.; penalties	384, 385
no person to sell fireworks without a licence	386
licensing of places for making and keeping gunpowder not within London or Westminster, &c.	£86, 394

GUNPOWDER, &c., MAKING, &c.—*continued.*

	Page
licensing of places for making loaded percussion caps, and making and keeping ammunition, &c. - - - - -	386, 394
mode of application for licences; table of fees - - - - -	394
notice of intention to apply for licence - - - - -	386
licences may be conditional on observance of precautions - - - - -	387
if licence refused applicant may memorialize Secretary of State - - - - -	387
rules for preventing accidents in mills, &c. - - - - -	387
penalty for doing any act in any mill, &c. tending to cause explosion; power to apprehend offenders - - - - -	387
inspection of mills, &c. - - - - -	388
limitation of quantities of gunpowder to be kept by persons other than manufacturers - - - - -	388, 394
gunpowder may be kept for mines under certain conditions - - - - -	389, 394
restrictions on carriage of gunpowder by land or water; power to seize gunpowder where restrictions infringed - - - - -	389
no gunpowder to be loaded until that condemned be unloaded - - - - -	390
penalty for smoking, &c. on board vessels loaded with gunpowder - - - - -	390
penalty for undue delay in loading or unloading gunpowder - - - - -	390
foregoing provisions to extend only to carriage of more than 100 lbs. of gunpowder - - - - -	390
power to issue warrants to search for gunpowder - - - - -	390
regulations for the security of the vessels in the Thames - - - - -	391
conservators of the Thames to appoint searchers - - - - -	392
forfeitures and penalties recoverable summarily - - - - -	392
saving for mills erected on crown lands, magazines at Barking Creek's mouth, &c. - - - - -	392
saving for 54 Geo. 3. c. 159., and gunpowder, &c. for Her Majesty's service - - - - -	393
saving for proof houses under 18 & 19 Vict. c. cxlviii. - - - - -	393
unlimited quantities of gunpowder may be conveyed from ships below Blackwall, &c. - - - - -	393
saving of enactments for protection of London Docks - - - - -	393
saving for provisions of police acts - - - - -	393
2 & 3 Vict. c. 47. and 9 & 10 Vict. c. 25. to be construed as referring to 23 & 24 Vict. c. 139. - - - - -	393
meaning of the word "borough" - - - - -	394

See MALICIOUS INJURIES TO PROPERTY.

HACKNEY CARRIAGE :

duties - - - - -	66, 120
definition of - - - - -	66, 94, 99, 121
not to be kept without licence or without plate - - - - -	67
licences for, by whom and where granted, &c. - - - - -	67, 120
requisition for licence; penalty for false statement - - - - -	67
contents of licence - - - - -	67
commencement and termination of licence; renewal of licence; transfer on death, &c. - - - - -	120
notice, &c. of change of abode of licensed proprietor of; penalty for default - - - - -	68
registry of names of proprietors at Guildhall - - - - -	68
payment of duties - - - - -	68, 120
discontinuance and revocation of licence - - - - -	68, 79, 105
delivery up of plate on expiration, discontinuance, or revocation of licence; penalty for default - - - - -	68, 120
liability of, and of horses, &c. for duties, &c. - - - - -	68
duties recoverable by distress - - - - -	69
regulations as to placing of plates upon - - - - -	69
penalty for concealing, &c. plate, or preventing number being taken, or giving wrong number - - - - -	70
recall of plates in order to be changed - - - - -	71
new licence where plate wilfully obliterated - - - - -	71

HACKNEY CARRIAGE—*continued.*

	Page
penalty for keeping, without licence, or without plates affixed, and for not delivering up recalled plates, &c.	71
penalty for using on Sunday where only licensed for week-days	120
penalty on driver of, for plying without plates	71
power for constable, &c. to apprehend drivers and seize carriage where plying without plates	71
what to be deemed, in proceeding for penalty	72
forgery, &c. of stamp office plate	72
power for constable, &c. to seize forged plates or plates used without a licence in force or after being recalled; penalty for obstructing constable	104, 105
licences to drivers	100
duty on such licence	101
penalty on driver for acting without licence, &c.	101
penalty on proprietor employing unlicensed driver	101
proceeding against proprietor to compel production of driver to answer complaint; remedy of proprietor against driver	73, 108, 142
penalties, &c. on drivers may be levied on proprietors	73, 108, 108
recovery by proprietor of penalties, &c. paid by him in respect of offences committed by driver	73
settlement of disputes between proprietor and driver	74, 104
agreements between proprietor and driver to be in writing	104
entry of particulars of proprietor's licence in stamp office books; entry evidence	74
procuring licence in fictitious name, &c.	74
when deemed plying for hire; penalty on driver refusing a fare	74
compensation to driver improperly summoned for refusing a fare	75
plying for hire and compulsory hiring on Sunday	75
remedy for nonpayment of fare or damage	75
certificate of fitness of carriage required from Commissioners of Police before grant of licence	112
inspection of, and of horses; notice of unfitness; suspension of licence for wrongful use after notice	112
penalty on proprietor and driver for using, without certificate of fitness or after notice of unfitness	112
fares to be taken for	113, 120, 121
table of fares to be put up inside and outside; driver to produce book of fares when required	113
table signed, &c. evidence of distance; placing tables of distances, &c. at standings, &c.	113
distance and time driver may be required to drive; rate of speed when hired by time	74, 114, 118
driver to deliver ticket to hirer	114
number of persons to be carried to be painted on, and driver required to carry that number	114
carriage of luggage without extra charge	114
deposit of property left in, at police station; penalty on driver for default; restoration to owner or disposition if unclaimed	114
penalty on driver refusing to go for legal fare	76
not driving at proper speed	116
demanding more than legal fare	117
not admitting proper number of persons	116
refusing to carry luggage	117
refusing to go proper distance	117
refusing to drive by time	117
not delivering ticket to hirer	117
plying with carriage or horse unfit for use	117
plying elsewhere than at a standing	107
loitering or causing obstruction	107
permitting person to ride without consent of hirer	77
allowing any person except hirer to ride on driving box	108

HACKNEY CARRIAGE—continued.

	Page
agreement to pay more than legal fare not binding; penalty for taking more than legal fare or more than the sum agreed for	76
driver may be required to drive for a stated sum a distance in his discretion	76
driver may demand deposit when required to wait; penalty for refusing to wait, &c.	77
check-strings to be provided; penalty for default	77
where property left in, to be deposited, &c.	77, 114
penalty for improperly standing with, &c.; refusing to give way, &c.; depriving driver of a fare	77
regulation of standings	77, 78, 106, 107, 111, 112
appointment of persons to enforce order at standings, &c.; wages of such persons, &c.	115, 116
penalty for leaving, unattended; power for constable, &c. to take same to place of safe custody	78
penalty on proprietor, or driver, for misbehaviour; revocation, &c. of licence	78, 104, 106, 281, 287, 519
duties and penalties as to licence and plate how recoverable	80, 121
jurisdiction as to offences, &c.	80, 109, 110, 117
summary proceeding for penalties; limitation of time for complaint; proceedings not to be removed, &c.	80, 81, 109, 110
forms	81
warrant or summons may issue in first instance	81, 110
penalty on witness not attending, &c.	81, 110
summons or notice, how served	81, 110
where more proprietors than one, sufficient to name only one	111
penalty on constable refusing to serve summons, &c.	81
mitigation of penalties	81, 111
application of penalties	82, 111
actions for acts done	82, 111
interpretation of terms used in 1 & 2 Will. 4. c. 22., 6 & 7 Vict. c. 86., and 16 & 17 Vict. c. 33.	82, 99, 118
requisition for driver's licence; penalty for offences in relation to procuring licence	101, 102
notice, &c. of change of abode of driver; penalty for default	102
entry of licences; copies evidence	102
tickets to be worn by drivers; penalty for default, or refusing inspection	102
delivery up of licence and ticket on expiration of licence; penalty for default, &c.; power for constable, &c. to seize ticket	102, 103
delivery of new tickets instead of tickets defaced or lost; penalty for using defaced ticket	103
forgery of licence or ticket; power for constable, &c. to seize same	103
proprietor to retain licence of driver, and produce same on complaint	103
delivery up of driver's licence on quitting employment	104
revocation or suspension of driver's licence	104
penalty on driver for allowing any person to act as such without proprietor's consent, &c. and on person so acting	105
power for constable to take into custody any person unlawfully acting as driver, and to take charge of carriage, &c.	105
compensation may be adjudged for hurt or damage caused by misbehaviour of driver	106
bills, &c. not to be put on or in, so as to cause annoyance	116
settlement of dispute between hirer and driver	117
penalty for offences where no special penalty appointed	117
licences to let horses for hire not required in respect of horses used in	119
penalty on proprietor for withdrawing	121
who to prosecute for penalties for using, without licence or without plates	121
HIGHWAYS, OFFENCES IN RELATION TO (under Highways Act, 5 & 6 Will. 4. c. 50.):	
interpretation of terms in Highways Act	275
penalty on taking away materials belonging to surveyor, &c.	276
penalty on surveyor not causing pits to be fenced, &c.	276

HIGHWAYS, OFFENCES IN RELATION TO (under Highways Act, 5 & 6 Will. 4. c. 50.)—continued.

penalty on surveyor allowing heap of stones, &c. in highway at night, without due precaution	-	-	-	-	276
steam engines, fires, &c. not to be erected or made within certain distances of roads, under daily penalty	-	-	-	-	276
penalty for, riding on footpaths, &c.	-	-	-	-	277 278 281
injuring the roads, &c.	-	-	-	-	
obstructing passage of footway	-	-	-	-	
damaging banks, causeways, &c.	-	-	-	-	
playing at football, &c.	-	-	-	-	
pitching tent	-	-	-	-	
making fires	-	-	-	-	
baiting bulls	-	-	-	-	
laying timber	-	-	-	-	
suffering filth to run into highway	-	-	-	-	
obstructing free passage of highway	-	-	-	-	
surveyor may by order of justice dispose of matters laid on highway causing nuisance	-	-	-	-	278
power to impound cattle straying on highway, &c.	-	-	-	-	278
penalty for pound breach, &c.	-	-	-	-	279
provision as to one person having charge of more than one cart; penalty	-	-	-	-	280
penalty for riding on cart, &c.	-	-	-	-	278 281
causing hurt or damage by wilfulness or negligence	-	-	-	-	
quitting the road	-	-	-	-	
driving cart without owner's name, and refusing name	-	-	-	-	
not keeping near side	-	-	-	-	
interrupting free passage	-	-	-	-	
riding or driving furiously	-	-	-	-	
proceeding if driver will not discover his name	-	-	-	-	282
driver offending may in certain cases be apprehended without warrant	-	-	-	-	282
power to apprehend unknown offenders	-	-	-	-	283
costs; procedure for penalties; witnesses; enforcing payment of penalties, &c.; appeal	-	-	-	-	283
notice of action, &c.	-	-	-	-	283
fees to be taken of clerks of justices, &c.	-	-	-	-	283, 284
savings	-	-	-	-	284

See CARRIAGE; CART; HACKNEY CARRIAGE; POLICEMEN; STAGE CARRIAGE; STAGE CARRIAGE, METROPOLITAN; TURNPIKE ROADS, and other particular heads of subjects.

HALF PAY :

saving for, with respect to officers of Metropolitan Police Force	-	3
---	---	---

HOOF :

penalty for burning, &c. in any thoroughfare	-	30
--	---	----

HORSE AND FOOT PATROL :

superannuation allowances to policemen formerly belonging to	-	12
--	---	----

HORN :

penalty for blowing in any thoroughfare, &c.	-	28, 107
--	---	---------

HOUSE :

penalty for exposing anything for sale on the outside of	-	32
or part of, in a filthy and unwholesome condition, may be ordered by police magistrate to be cleansed	-	53

HOUSELESS POOR. *See* ASYLUMS FOR HOUSELESS POOR.

HURT OR DAMAGE :

person causing, by any offence, &c., may be apprehended without warrant, and liable to pay compensation	-	33
---	---	----

See HACKNEY CARRIAGE; STAGE CARRIAGE, METROPOLITAN.

INDEX.

575

IDLE AND DISORDERLY PERSON :

Page

person committing any of the following offences to be deemed :—	
neglecting to maintain self or family - - - -	
returning and becoming chargeable after removal - - -	121
wandering abroad and trading without licence - - -	122
common prostitute behaving riotously, &c. in highway or place of public resort - - - -	131
wandering abroad, &c. and begging, or causing children to do so	
person asking alms under prohibited certificate, to be deemed -	129
See VAGRANT.	

IMPRISONMENT :

for nonpayment of penalty under Metropolitan Police Force and Police Courts Acts - - - - -	39, 41, 55
--	------------

INCORRIGIBLE ROGUE :

person committing any of the following offences to be deemed :—	
breaking, &c. from place of confinement, under Vagrant Act -	124
committing any offence for which he is liable to be convicted as a rogue and vagabond after having been so convicted -	125
violently resisting apprehension as a rogue and vagabond -	
punishment of, by order of sessions - - - - -	127
See VAGRANT.	

INDUSTRIAL SCHOOLS, AND CARE OF DESTITUTE CHILDREN (24 & 25 Vict. c. 113.)

interpretation of terms - - - - -	372
mode of certifying industrial school - - - - -	372
withdrawal of certificate by Secretary of State - - - -	372
notice of withdrawal - - - - -	373
resignation of certificate by managers - - - - -	373
guardians may contract with managers - - - - -	373
description of children liable to be sent to school - - -	373
justices may send child to school - - - - -	374
provision for lodging child out of school - - - - -	375
settlement not acquired by stay at school - - - - -	375
power to managers to make rules, subject to approval of Secretary of State - - - - -	375
limitation of stay at school - - - - -	375
discharge of child from school, &c. - - - - -	375
power in certain cases to discharge child from school before expiration of period - - - - -	375
contribution by Treasury - - - - -	375
order for payment of maintenance - - - - -	376
variation of order - - - - -	376
penalty on child absconding - - - - -	376
penalty for inducing a child to abscond, or harbouring absconding child	376
recovery of penalties - - - - -	377
notice of grant or withdrawal of certificate by Secretary of State to be published in Gazette - - - - -	377
evidence of order of justices - - - - -	377
evidence of certificate of school, identity of child, and making of orders -	377
order not invalid for want of form, &c. - - - - -	377
act to apply to schools certified under repealed acts - - -	378
duration of act - - - - -	378

See YOUTHFUL OFFENDERS (CARE AND REFORMATION).

INFORMALITY :

in warrants under Metropolitan Police Force and Police Courts Acts	39, 56, 57
--	------------

INFORMATION :

form of, under Metropolitan Police Courts Acts - - - -	56, 60
--	--------

INSPECTOR BELONGING TO METROPOLITAN POLICE FORCE :	Page
may board vessels for preventing and detecting felonies, &c.	17, 18
may board vessels, and seize unlawful quantities of gunpowder	18
INSTRUMENT :	
penalty for using noisy, in any thoroughfare, &c.	28, 107
ISLINGTON. See CATTLE.	
JUSTICES :	
not disabled by being rated to police rate	39
two may act with certain of the powers of a police magistrate, under certain circumstances	59, 62
power of, to enlarge prisoner, on recognizance	60
jurisdiction of, to try offences within Central Criminal Court district	342
JUVENILE OFFENDERS (SUMMARY JURISDICTION IN LARCENY) :	
persons not exceeding 16 years of age committing certain offences may be summarily convicted by two justices	364, 366
power to justices to hear and determine, &c.	365
proceedings (under 10 & 11 Vict. c. 82.) a bar to further proceedings	365
mode of compelling appearance of person charged	365
power to remand and take bail	365
application of fines	365
summoning and attendance of witnesses	365
service of summons ; form of conviction ; no certiorari, &c.	365
convictions to be returned to quarter sessions	366
no forfeiture upon conviction ; presiding justice may order restitution of property	366
recovery of penalties	366
expenses of prosecutions, how to be paid, and orders for payment, how made	366
actions, &c. for acts done (under 10 & 11 Vict. c. 82.)	366
justice to ask whether accused wish the charge tried by a jury	366
See YOUTHFUL OFFENDERS.	
KITE :	
penalty for flying, in any thoroughfare, &c.	29
LAMBETH :	
boundaries of parliamentary borough of	24 note †
LAMP :	
penalty for wilfully damaging	255, 286, 293
carelessly or accidentally damaging	256
LANDLORD :	
summary recovery of premises deserted by tenant, where half a year's rent is in arrear ; appeal	61, 216, 217
as to actions against persons for entry	217
summary recovery of premises (holden at a rent not exceeding 20 <i>l</i> .) after determination of tenancy	217
how notice (or summons) to deliver up possession to be served	219
stay of execution of warrant of possession	219
protection of justices and constables	219
liability of, for irregularity	219
interpretation of terms in 1 & 2 Vict. c. 74.	219
forms of proceedings	220, 221
See TENANT.	

INDEX.

577

LANGUAGE :	Page
penalty for using, in any thoroughfare, &c., profane, indecent, or obscene	28
LARCENY, &c. (Statute Law Consolidation, 24 & 25 Vict. c. 96.):	
interpretation of terms :	
document of title to goods - - - - -	414
document of title to lands - - - - -	
trustee - - - - -	
valuable security - - - - -	
property - - - - -	
night - - - - -	416
all larcenies to be of the same nature - - - - -	416
fraudulent conversion of property by bailee to be larceny - - - - -	416
punishment for simple larceny - - - - -	416
three larcenies against same person within 6 months may be charged in one indictment - - - - -	416
where single taking, charged, and distinct takings exceeding three proved, prosecutor to elect - - - - -	416
punishment for larceny, after a conviction for felony - - - - -	416
punishment for larceny, after conviction of an indictable misdemeanor under this act - - - - -	417
punishment for larceny, after two summary convictions - - - - -	417
stealing horses, cows, sheep, &c. - - - - -	417
killing animals, with intent to steal the carcase, &c. - - - - -	418
stealing deer in uninclosed part of a forest - - - - -	418
stealing deer in inclosed ground - - - - -	418
penalty for possession of venison, &c., and not satisfactorily accounting for it, &c. - - - - -	418, 419
setting engines for taking deer or pulling down park fences - - - - -	419
deerkeepers, &c. may demand and seize the guns, &c. of offenders - - - - -	419
resistance to such keepers, &c. in the execution of their duty - - - - -	419
killing, &c. hares or rabbits in a warren in the night; the like in the day - - - - -	420
stealing dogs - - - - -	420
possession of stolen dogs - - - - -	420
taking money to restore dogs - - - - -	421
stealing beasts or birds ordinarily kept in confinement, and not the subjects of larceny - - - - -	421
possession of stolen beasts, &c. - - - - -	421
killing pigeons - - - - -	422
taking fish in water situate in land belonging to a dwelling house; in any private fishery elsewhere; provision respecting anglers; provision as to boundaries of parishes - - - - -	422
the tackle of fishers may be seized; angler, on seizure of his tackle, exempt from penalty - - - - -	423
stealing or dredging for oysters in oyster fisheries. - - - - -	423
stealing, &c. valuable securities (not relating to real property) - - - - -	423
stealing, &c. deeds, &c. relating to real property - - - - -	424
stealing, &c. wills or codicils - - - - -	424
stealing, &c. records or other legal documents - - - - -	425
stealing, &c. metal, glass, wood, &c. fixed to building or anything made of metal fixed in land - - - - -	425
stealing, &c. trees in pleasure grounds of the value of 1l. or elsewhere of the value of 5l. - - - - -	426
stealing trees, shrubs, &c. wheresoever growing, and of the value of 1s. at the least - - - - -	426
stealing, &c. any live or dead fence, wooden fence, stile, or gate - - - - -	426
possession of wood, &c. not satisfactorily accounting for it - - - - -	427
stealing, &c. any fruit or vegetable production in a garden - - - - -	427
stealing, &c. vegetable productions not growing in gardens, &c. - - - - -	428
stealing, &c. ore of metal, coal, &c. - - - - -	428
miners removing ore with intent to defraud - - - - -	428
robbery or stealing from the person - - - - -	429

LARCENY, &c. (Statute Law Consolidation, 24 & 25 Vict. c. 96.)—cont.	Page
on trial for robbery, jury may convict of an assault with intent to rob	429
assault with intent to rob	429
robbery or assault by a person armed, or by two or more, or robbery and wounding	429
sending, &c. letter demanding money, &c. with menaces	429
demanding money, &c. with menaces, or by force, with intent to steal	430
sending, &c. letter, threatening to accuse of crime, with intent to extort	430
accusing, or threatening to accuse, with intent to extort	430
inducing a person by violence or threats to execute deeds, &c., with intent to defraud	431
immaterial from whom the violence, &c. menaced is to proceed	431
breaking and entering a church or chapel, and committing any felony	431
burglary by breaking out in the night	431
punishment for burglary	432
what building within the curtilage shall be deemed part of the dwelling house	432
entering a dwelling house in the night, with intent to commit any felony	432
breaking into any building within the curtilage but not part of the dwelling house, and committing any felony, &c.	432
breaking into any house, shop, &c., and committing any felony, &c.	432
housebreaking, &c. with intent to commit any felony	433
being armed with intent to break and enter any building in the night, &c.	433
the like after a previous conviction for felony, &c.	433
stealing in a dwelling house to the value of 5 <i>l.</i>	433
stealing in a dwelling house with menaces inducing bodily fear	434
stealing goods in process of manufacture	434
stealing from ships, docks, wharfs, &c.	434
stealing from ship in distress or wrecked	435
possession of shipwrecked goods, and not giving a satisfactory account	435
shipwrecked goods offered for sale may be seized, &c.	435
larceny by clerks or servants	436
embezzlement by clerks or servants	436
larceny by persons in Queen's service, or by police	437
embezzlement by persons in Queen's service, or by police	437
distinct acts of embezzlement may be charged in same indictment	437
person indicted for embezzlement as a clerk, &c. not to be acquitted, if offence be larceny, and vice versa	438
embezzlement by officers of Bank of England or Ireland	439
tenants or lodgers stealing chattel or fixture let with house or lodgings	439
agent, banker, &c. embezzling money or selling securities, &c. intrusted to him	440
bankers, &c. fraudulently selling, &c. property intrusted to their care	441
persons under powers of attorney fraudulently selling property	441
factors or agents obtaining advances on property of their principals; clerks wilfully assisting	441-443
trustees fraudulently disposing of property, guilty of a misdemeanor; restriction on prosecution	443
directors, &c. fraudulently appropriating property; keeping fraudulent accounts; wilfully destroying books, &c.; or publishing fraudulent statements	444
no exemption by reason of certain provisions from answering questions in any court, but person making disclosure in compulsory proceeding not liable to prosecution	445
convictions under certain provisions not to be received in evidence in civil suits	445
certain misdemeanors not triable at sessions	445
obtaining money, &c. or procuring same to be paid, &c. to a third person, by false pretence	445, 446
inducing person by false pretence to execute deeds, &c., with intent to defraud	446
receiving, where principal is guilty of felony	446
indictment for stealing and receiving	447

LARCENY, &c. (Statute Law Consolidation, 24 & 25 Vict. c. 96.)—continued.

separate receivers may be included in same indictment in the absence of principal	Page 447
on indictment for jointly receiving, persons may be convicted of separately receiving	447
receiving where principal is guilty of a misdemeanor	447
receiver, where triable	447
receivers of property, where original offence is punishable on summary conviction	448
principals in the second degree and accessories; abettors in misdemeanors	448
abettors in offences punishable on summary conviction	448
owner of stolen property prosecuting thief or receiver to conviction, to have restitution	449
taking reward for helping to recovery of stolen property without bringing offender to trial	449
advertising reward for return of stolen or lost property, no questions to be asked, &c.	450
a person found committing any offence may be apprehended without a warrant	450
search warrant	450
any person to whom stolen property is offered may seize the party offering it	450
a person loitering at night, and suspected of any felony against this act, may be apprehended	450
compelling appearance of persons punishable on summary conviction	451
application and enforcement of penalties on summary convictions; proviso justice may, on summary conviction, discharge offender, in certain cases	451
summary conviction a bar to other proceeding	452
appeal to sessions	452
conviction, &c. not to be quashed for informality, or removed, &c.	452
convictions to be returned to quarter sessions, and certified copy evidence	452
venue in proceedings against persons acting under this act; notice of action, &c.	452
stealers of property may be tried and punished in that part of United Kingdom where they have the property	452
offences committed within the jurisdiction of the Admiralty	452
form of indictment for subsequent offence, &c.	453
fine and sureties for keeping the peace, in what cases	453
hard labour	453
solitary confinement and whipping	453
summary proceedings, how to be had	454
costs of prosecution of misdemeanors against this act may be allowed	454

See **STOLEN GOODS.**

LARCENY, SUMMARY JURISDICTION (18 & 19 Vict. c. 126.):

power to justices at petty sessions, by consent, to try persons charged with larceny, &c. summarily	379
course of procedure in such case	379, 380
accused may have assistance of counsel, &c.	380
power to remand	381
certified copy of conviction or dismissal to be evidence	381
power to order restitution of property on conviction	381
regulations as to petty sessions	381
11 & 12 Vict. c. 43. not to apply to proceedings under 18 & 19 Vict. c. 126.	381
effect of conviction under 18 & 19 Vict. c. 126	381
certificate of dismissal or conviction a bar to other proceedings	381
conviction not to be quashed for want of form	381
justices may order payment of expenses	382
one metropolitan police magistrate, &c. may act alone	382
saving for acts concerning juvenile offenders	382
interpretation of terms	383

See **JUVENILE OFFENDERS.**

LASTAGE AND BALLASTAGE IN THE THAMES (6 & 7 Vict. c. lvii.) :		Page
penalty on throwing ballast out of vessels into the Thames	- -	405
penalty on throwing rubbish, &c. into the Thames ; offenders may be apprehended by constables	- - - -	405
penalty for obstructing passage of ballast lighters	- - -	405
penalty on ballast-men for short delivery of ballast	- - -	405
penalty for neglect, &c. in delivery of ballast	- - -	405
ballast-men maliciously destroying vessels, &c., guilty of felony ; punishment	- - - -	405
ballast-men doing other damage to vessels liable to penalty, and to make compensation, or to be committed for trial at quarter sessions	- -	405
officers, ballastmen, &c. to be subject to Trinity House	- - -	405
existing byelaws to remain in force until altered	- - -	406
master, &c. of Trinity House to act as justices	- - -	406
saving of existing jurisdiction of justices	- - -	406
continuance of act	- - - -	406
LIGHT OF LAMP :		
penalty for extinguishing, in any thoroughfare, &c.	- - - -	29, 255, 286, 293
LIME :		
penalty for slacking, &c. in any thoroughfare	- - - -	30
LINEN, &c. :		
intrusted to persons to wash, &c., forfeiture for buying or taking in pawn	- - - -	228
See PAWNBROKER.		
LOCOMOTIVES, REGULATION OF :		
power to Secretary of State to prohibit the use of locomotives destructive to highways, or dangerous	- - - -	294
use over bridges restricted	- - - -	294
locomotives propelled by steam to consume their own smoke	- - -	295
provision as to number of persons in charge of locomotive and waggons ; lights to be used at night	- - - -	295
toll exemption	- - - -	295
speed regulated	- - - -	295
application of turnpike acts ; weight of locomotive to be affixed	- - - -	295
right of action in case of nuisance	- - - -	296
LONDON, CITY OF :		
metropolitan police may on emergency be authorized to act in ; police force of, may, in like case, be authorized to act in metropolitan police district	- - - -	4 note †
powers of two justices in	- - - -	59, 62
LUNATICS :		
provision as to insane persons intruding into palaces, &c.	- - -	165
provision for sending to asylum, &c. insane persons evincing intention to commit crimes	- - - -	165
provision for removal, &c. of prisoners (except under civil process) becoming insane	- - - -	166
provision for removal to asylum for criminal lunatics of insane prisoners	- - - -	167
provision as to, when wandering at large	- - - -	167-170
provision as to (not paupers), when not under proper care or cruelly treated	- - - -	168-170
provision for payment of expenses of examination, &c. in case of wandering lunatics and lunatics not under proper care, &c.	- - - -	170
penalty on medical officer, relieving officer, overseer, or constable neglecting duty imposed as to lunatics	- - - -	170
asylum, &c. to which lunatic to be sent	- - - -	171
detention, and retaking on escape, of lunatics	- - - -	171
recovery and application of penalties under 16 & 17 Vict. c. 97.	- - - -	172
appeal to quarter sessions	- - - -	172

MAGISTRATE:

Page

interpretation of the word in 2 & 3 Vict. c. 47. - - - 38, 58

MALICIOUS INJURIES TO PROPERTY (Statute Law Consolidation, 24 & 25
Vict. c. 97.):

setting fire to church or chapel - - - - -	454
setting fire to dwelling house, any person being therein - - -	454
setting fire to a house, outhouse, manufactory, farm building, &c. -	455
setting fire to any railway station, &c. - - - - -	455
setting fire to any public building - - - - -	455
setting fire to other buildings - - - - -	455
setting fire to goods in any building, the setting fire to which is felony -	456
attempting to set fire to buildings - - - - -	456
destroying or damaging a house with gunpowder, &c., any person being therein - - - - -	456
attempting to destroy buildings, &c., with gunpowder, &c. - - -	456
rioters demolishing church, building, &c. - - - - -	457
rioters injuring church, building, &c. - - - - -	457
tenants of houses, &c. maliciously injuring them - - - - -	458
destroying goods in process of manufacture, certain machinery, &c. -	458
destroying machines in other manufactures, threshing machines, &c. -	459
setting fire to crops of corn, &c. - - - - -	459
setting fire to stacks of corn, &c. - - - - -	460
attempting to set fire to crops of corn, &c., or to any stack or steer -	460
destroying hopbines - - - - -	460
destroying or damaging trees, shrubs, &c., to the value of more than £1 growing in a pleasure ground, &c. - - - - -	460
destroying or damaging trees, shrubs, &c., to the value of more than £5, growing elsewhere than in a pleasure ground, &c. - - - - -	461
destroying or damaging trees, &c. wheresoever growing, to the amount of 1s. - - - - -	461
destroying any fruit or vegetable production in a garden - - - - -	462
destroying, &c. vegetable productions not growing in gardens, &c. - -	462
destroying, &c. any fence, wall, stile, or gate - - - - -	463
setting fire to a coal mine - - - - -	463
attempting to set fire to a mine - - - - -	463
conveying water into a mine, obstructing shaft, &c. - - - - -	464
damaging steam engines, staiths, waggonways, &c., for working mines -	464
destroying any sea bank or wall on any canal - - - - -	465
removing the piles of sea bank, &c., or doing damage to obstruct navigation of river or canal - - - - -	465
breaking down dam of a fishery, &c., or milldam, or poisoning fish -	465
injury to public bridge, &c. - - - - -	466
destroying turnpike gate, toll-house, &c. - - - - -	466
placing wood, &c. on railway, with intent to obstruct or overthrow engine, &c. - - - - -	467
obstructing engines or carriages on railways - - - - -	467
injuries to telegraphs - - - - -	467
attempt to injure telegraphs - - - - -	468
destroying or damaging works of art in museums, churches, &c., or in public places - - - - -	468
killing or maiming cattle - - - - -	469
killing or maiming other animals - - - - -	469
setting fire to a vessel - - - - -	469
setting fire to vessels to prejudice owner of vessel, or goods, or underwriters - - - - -	469
attempting to set fire to a vessel - - - - -	470
placing gunpowder, &c. near a vessel, with intent to damage it - -	470
damaging vessels otherwise than by fire - - - - -	470
exhibiting false signals, &c. - - - - -	471
removing or concealing buoys and other sea marks - - - - -	471
destroying wrecks or articles belonging thereto - - - - -	471
sending letters threatening to burn or destroy houses, buildings, ships, &c. - - - - -	471

MALICIOUS INJURIES TO PROPERTY (Statute Law Consolidation, 24 & 25 Vict. c. 97.)—continued.	Page
malicious injuries not before provided for, exceeding amount of £5 -	472
damage to property not before provided for -	472, 473
making or having gunpowder, &c., with intent to commit any felony against this act -	473
justices may issue warrants for searching houses, &c. for such gunpowder, &c. -	473
principals in the second degree and accessories; abettors in misdemeanors any person loitering at night, and suspected of any felony against this act, may be apprehended -	474
malice against owner of property unnecessary -	474
provisions of this act to apply to persons in possession of the property -	474
intent to injure or defraud particular persons need not be stated in any indictment or proved -	474
persons found committing any offence may be apprehended without a warrant -	474
compelling appearance of persons punishable on summary conviction -	475
abettors in offences punishable on summary conviction -	475
application of penalties on summary convictions; provisions relating to summary convictions; notice of action, &c.; offences within the jurisdiction of the Admiralty; provisions as to hard labour, &c.; costs -	475
MARINE STORES, DEALERS IN. See MERCHANT SHIPPING.	
MARYLEBONE :	
boundaries of parliamentary borough of -	24 note †
MATERIALS :	
intrusted to persons to manufacture, &c.; forfeiture for buying or taking in pawn -	228
See PAWNBROKERS.	
MAT. See CARPET.	
MEDICAL PRACTITIONERS REGULATION :	
qualified persons to be registered -	403
register to be published annually, and absence of name from register to be <i>prima facie</i> evidence of non-registry -	404
meaning of terms "legally qualified medical practitioner," &c. -	404
registered persons exempted from serving on juries, &c. -	404
no medical certificate to be valid unless person signing be registered -	404
penalty for falsely pretending to be a registered person -	404
recovery of penalties -	404
MERCHANT SHIPPING :	
interpretation of terms in 17 & 18 Vict. c. 104. -	308
Board of Trade to superintend merchant shipping -	308
evidence of certificates, &c. -	308
forms of instruments -	308
forgery of seal of Board of Trade, &c. -	309
description and ownership of British ships -	309
registry of British ships required -	309
application of Part III. of 17 & 18 Vict. c. 104. -	309
local marine boards -	310
local marine boards to establish shipping offices -	310
business of such offices -	310
provision as to fees at shipping offices -	311
payment of fees by masters, and deduction of part from wages -	311
dispensation with shipping masters superintendence -	311
shipping masters to assist in binding apprentices -	311
pauper apprentices -	311
indentures of apprenticeship exempt from stamp duty; registering thereof, &c. -	311
rules as to apprenticeship of paupers -	311
apprentices and indentures to be brought before shipping master before each voyage in a foreign-going ship; penalty -	312

MERCHANT SHIPPING—continued.

	Page
Board of Trade may license persons to procure seamen -	312
penalty for supplying seamen without licence, employing unlicensed persons or receiving seamen illegally supplied -	312
penalty for receiving remuneration from seamen for shipping them -	312
agreements to be made with seamen containing certain particulars -	313
for foreign-going ships, agreements to be made before shipping master ; saving -	313
in home-trade ships agreement to be entered into before shipping master or other witness -	314
special agreements for home-trade ships belonging to same owner -	314
penalty for shipping seamen without agreement duly executed -	314
seamen discharged before voyage, &c. -	314
allotment notes -	314
discharge of seamen how to be made; penalty -	314
account of wages on discharge -	314
certificate of service -	315
provision for case of death before payment of wages -	315
provision for case of termination of service by wreck or illness -	315
suspension of wages -	315
period within which wages are to be paid -	315
summary recovery of wages -	315
deceased seamen's effects -	315
effects left abroad -	316
wages, &c. of seamen dying at home -	316
payment without probate, &c. -	316
as to payment under wills of seamen -	316
as to payment of creditors -	316
provision as to unclaimed wages -	316
forgery, &c. -	316
complaints by seamen -	316
charge on wages -	316
penalty for overcharges by lodging-house keepers -	316
penalty for detaining seamen's effects -	316
persons not to go on board before the final arrival of ship, without permission -	317
penalty for solicitations by lodging-house keepers, &c., within 24 hours after arrival -	317
misconduct endangering ship or life or limb -	317
master, owner, &c., may apprehend deserters without warrant -	317
penalty for enticing to desert, or harbouring deserters -	318
regulations to be observed by dealers in marine stores; penalties -	318
manner of obtaining permit to cut up cables -	319
permit to be advertised before dealer proceeds to act thereon; penalty for default -	319
manufacturers to place marks on anchors; penalty -	320
recovery of penalties -	320
offence where deemed to have been committed -	320
application of penalties -	321
limitation of time in summary proceedings -	321
penalty on masters of ships, &c. leaving certain seamen in distress in this country -	321
jurisdiction in case of offences on board ship -	322
relief of destitute natives of India -	322
contracts with natives of India as to service in ships -	323

METROPOLIS LOCAL MANAGEMENT (18 & 19 Vict. c. 120.):

vestries and district boards may appoint and pay crossing sweepers -	250
provisions as to removal of projections, &c. made from houses respectively before and after commencement of 18 & 19 Vict. c. 120. -	251
hoards to be erected during repairs causing obstruction; penalty -	252
hoards or scaffolds not to be erected without licence of vestry or district board; if so erected, may be removed, &c. -	252

METROPOLIS LOCAL MANAGEMENT (18 & 19 Vict. c. 120.)—continued.	Page
precautions to be taken in laying out new streets or building therein	253
employment of scavengers ; penalty on scavengers not performing their duties	253, 254
penalty on occupiers, &c. obstructing scavengers	254
payment to be made to scavengers for removal of refuse of trade, &c.	254
settlement of disputes as to what is such refuse	254
appointment and duties of inspectors of nuisances	254
vestries and district boards to be local authorities to execute Nuisances Removal and Diseases Prevention Acts	255
penalty for sweeping dirt, &c. into sewers, &c.	255
penalty for wilfully damaging lamps or extinguishing the light, or wilfully damaging other property of vestry or district board or metropolitan board ; power to apprehend offenders	255
carelessly or accidentally damaging lamps or other such property	256
penalty for obstructing workmen, &c. in execution of duty	256
penalty on occupier preventing owner executing works, or not disclosing owner's name	256
recovery of penalties	257
damages to be made good in addition to penalty	257
transient offenders may be apprehended	257
informality ; appeal	257
limitation of time for suing for penalties ; application of penalties	257
saving for Metropolitan Police Commissioners	257
extension of Act by order in council	257
METROPOLITAN BUILDINGS (18 & 19 Vict. c. 122.) :	
interpretation of terms in Metropolitan Building Act	258
extent of such act	258
commissioners to cause survey to be made of dangerous structures	258
"commissioners" to mean the Commissioners of Police of the metropolis	258
surveyor on completion of survey to give certificate	259
proceedings to be taken on certificate	259
provision for enforcing compliance with requisition of commissioners	259
sale of structure for recovery of expenses where owner cannot be found or does not pay ; disposal of surplus	259, 260
payments to be made by and to Receiver ; indemnity to commissioners, &c.	260
fees to surveyor for his services ; such fees to be deemed part of expenses	260, 264
justice may cause inmates to be removed from dangerous structures	261
commissioners may appoint persons and make regulations for execution of provisions as to dangerous structures	261
power for building owner to enter to execute work, and, with aid of constable, to break open doors ; penalty on persons obstructing, &c.	261
how notices, consents, &c. to be given where persons are under disability	262
expenses payable by owners how to be borne and recovered	262
service of notice, summons or order	263
recovery of penalties, &c.	263
application of penalties	263
appeal	263
notice of action, &c. for acts done under act	264
METROPOLITAN POLICE DISTRICT :	
formation of, &c.	3, 4
summons, &c. against persons residing within, to appear without, void, except in certain cases	44, 62
two justices may act within, with certain of the powers of a Police Magistrate, under certain circumstances	59
See other heads of this Index.	
MIDDLESEX, ADMINISTRATION OF CRIMINAL JUSTICE :	
general sessions for Middlesex to have powers of quarter sessions	410

MILITIA :	Page
notices, &c. to be served, &c. by policemen, &c.	- 61, 397
time and place of training, and location of regiments during training	396, 399
militia may be billeted in beer-houses in which soldiers may be billeted	396
permanent staff to be billeted	397
how notices of times and places of exercise to be given	397
penalties for fraudulent re-enlistment	398
punishment of men not attending or absenting themselves during training, and not taken till after	398
provision for apprehension of men not attending or absenting themselves during training	398
penalty for inducing men to absent themselves, or harbouring or employing men absenting themselves	399
penalty for buying arms or militia stores	399
provisions concerning militia to extend to corps of miners of Cornwall and Devon	399
militia volunteers may be subjected to preliminary drill, in addition to other training	399
MISDEMEANOR :	
the following offences declared ; viz. :—	
taking in exchange stores, &c. from seamen, &c.	16
cutting, &c. ropes, &c. of any vessel, &c., with intent to steal	16
letting fall into the river, &c., articles belonging to any vessel, &c., to avoid seizure, &c.	16
framing or producing false bills of parcels, to avoid detection	16
being found in docks, &c., possessing any instrument for unlawfully obtaining wine, &c.	17
attempting unlawfully to obtain wine, &c.	17
piercing caaks, opening packages, &c. on board any ship, or in any warehouse, &c., with intent to steal contents, or unlawfully drinking, &c. contents	17
breaking, &c. packages, &c. on board of barges, &c. in the river, &c., with intent to spill contents	17
having or conveying stolen goods	46, 47, 63
forging, &c. stamp office plate for hackney or stage carriage	72, 87
procuring licence for hackney or stage carriage in fictitious name, &c.	74, 83
forging, &c. licence or ticket of driver, &c. of hackney or metropolitan stage carriage	103
See COINAGE OFFENCES ; FORGERY ; LARCENY ; MALICIOUS INJURIES TO PROPERTY ; OFFENCES AGAINST THE PERSON.	
MUSICIAN.	See STREET MUSICIAN.
NAVAL COAST VOLUNTEERS, OFFENCES IN RELATION TO :	
penalty on selling or buying arms, &c. of volunteers	402
penalty on volunteer for not attending training and exercise	402
persons not attending, when called into actual service, may be apprehended as deserters from the navy	403
penalty for inducing persons to absent themselves, or harbouring or employing persons absenting themselves	403
recovery of penalties	403
application of penalties	403
NAVY, OFFENCES IN RELATION TO :	
apprehension of deserters	400
fraudulent confession of desertion	400
penalty for persuading persons to desert or absent themselves from duty	400
recovery and application of penalties	401
spirits, &c. not to be brought on board H. M.'s ships without commander's consent ; penalty ; offenders may be apprehended	401
service in, of coastguard, &c. in case of emergency	402
NIGHT-WATCH :	
determination of	9

NIGHTSOIL, &c. :	Page
penalty for certain offences in relation to removal of -	31
NUISANCES IN THOROUGHFARES, &c. See PENALTIES and the particular heads of nuisance in this Index.	
NUISANCES REMOVAL AND DISEASES PREVENTION, (18 & 19 Vict. c. 121., 23 & 24 Vict. c. 77.)	
interpretation of terms in 18 & 19 Vict. c. 121. -	264
who to be local authority -	265
what deemed nuisances -	265, 270, 271
notice of nuisance to be given to local authority to ground proceedings -	265
power of entry to ascertain and abate nuisance -	266
proceedings before justices to procure abatement -	266, 271
order for abatement and preventing recurrence -	266, 271
penalty for contravention of order; power to local authority to abate nuisance -	267
appeal -	267, 269
provision where person causing nuisance cannot be found -	267
power to sell matter removed -	267
expenses by whom to be borne, and recovery thereof -	267
penalty for fouling water with gas washings, and recovery of such penalty -	267
daily penalty for same offence after notice -	267
power to seize unwholesome meat, &c.; penalty for exposing for sale -	268
provision as to nuisances arising from noxious trades; penalties; reference to superior court -	268, 269
proceedings for abating overcrowding of dwelling house; penalty -	269
power to local authority to direct proceedings and order payment out of rates -	269
forms to be used -	269
saving for powers at common law and under other acts, &c. -	269
form of notice of nuisance -	270
wells, fountains, &c. belonging to any place to be vested in local authority, who are to maintain same -	270
penalty for damaging same or fouling water -	271
local authority may provide carriages for conveyance of infected persons -	271
provision for abatement of nuisance on private premises by order of justices on application of inhabitant -	271
OBSCENE PRINT, &c. :	
penalty for selling, &c. in any thoroughfare, shop, &c. -	28, 123 131
power to order search of premises for, &c. -	132
OBSTRUCTION :	
penalty for causing, in any thoroughfare -	27, 32, 277-8, 281-2, 284-6
See HACKNEY CARRIAGE; ROUTE; STAGE CARRIAGE, METROPOLITAN.	
OFFENCES AGAINST THE PERSON (Statute Law Consolidation, 24 & 25 Vict. c. 100.) :	
punishment and sentence for murder -	511
conspiring or soliciting to commit murder -	511
manslaughter -	511
form of indictment for murder or manslaughter -	511
excusable homicide dispensable -	512
petit treason to be murder only -	512
murder or manslaughter abroad -	512
provision for the trial of murder and manslaughter where the death, or the cause of death only, happens in England or Ireland -	512
administering poison or wounding with intent to murder -	513
destroying or damaging a building with gunpowder, &c., with intent to murder -	513

OFFENCES AGAINST THE PERSON (Statute Law Consolidation, 24 & 25 Vict. c. 100.)—*continued.*

	Page
setting fire to or casting away a ship, &c., with intent to murder -	513
attempting to administer poison, or shooting or attempting to shoot or attempting to drown, &c., with intent to murder -	513
attempting otherwise to commit murder -	514
sending letter threatening to murder -	514
impeding a person endeavouring to save himself or another from shipwreck -	514
shooting or attempting to shoot, or wounding with intent to do grievous bodily harm -	514
what to constitute loaded arms -	515
inflicting bodily injury, with or without weapon -	515
attempting to choke, &c. in order to commit any indictable offence -	515
using chloroform, &c. to commit any indictable offence -	515
maliciously administering poison, &c. so as to endanger life or inflict grievous bodily harm -	516
maliciously administering poison, &c., with intent to injure, aggrieve, or annoy -	516
person charged with the greater of the two last preceding offences may be found guilty of the less -	516
not providing apprentices or servants with food, &c., whereby life endangered, &c. -	516
exposing infants, whereby life endangered, &c. -	517
causing bodily injury by gunpowder, &c. -	517
causing gunpowder, &c. to explode, or sending to any person an explosive substance, or throwing corrosive fluid, &c. on any person, with intent to do grievous bodily harm -	517
placing gunpowder, &c. near a building, &c., with intent to do bodily injury to any person -	517
setting spring guns, &c., with intent to inflict grievous bodily harm -	518
placing wood, &c. on a railway, with intent to endanger passengers -	518
casting stone, &c. upon a railway carriage, with intent to endanger the safety of any person therein -	519
doing or omitting anything to endanger passengers by railway -	519
drivers of carriages injuring persons by furious driving, &c. -	519
obstructing or assaulting a clergyman or other minister in the discharge of his duties -	519
assaulting a magistrate, &c. on account of his preserving wreck -	520
assault with intent to commit felony, or on peace officers, &c. -	520
assault with intent to obstruct the sale of grain, or its free passage -	520
assaults on seamen, &c. -	521
assaults arising from combination to raise wages, &c. -	521
persons committing any common assault or battery may be imprisoned, or compelled by two justices to pay fine and costs not exceeding 5 <i>l.</i> -	521
persons convicted of aggravated assaults on females and on boys under 14 years of age may be imprisoned or fined -	522
justices dismissing complaint of assault or battery on merits to make out certificate to that effect -	522
certificate or conviction a bar to other proceedings -	522
justices to abstain from adjudicating in certain cases -	522
assault occasioning bodily harm; common assault -	523
rape -	523
procuring defilement of girl under age -	523
carnally knowing a girl under 10 years of age -	523
carnally knowing a girl between the ages of 10 and 12 -	523
indecent assault on any female; attempt at carnal knowledge of a girl under 12 -	524
abduction of a woman against her will from motives of lucre; fraudulent abduction of a girl under age against the will of her father, &c. -	524
forcible abduction of any woman, with intent to marry her -	524
abduction of a girl under 16 years of age -	525
child-stealing -	525

OFFENCES AGAINST THE PERSON (Statute Law Consolidation, 24 & 25 Vict. c. 100.)—*continued*.

	Page
bigamy - - - - -	525
administering drugs or using instruments to procure abortion - - -	526
supplying or procuring drugs, &c. to procure abortion - - -	526
concealing birth of a child - - - - -	527
sodomy and bestiality - - - - -	527
attempt to commit an infamous crime - - - - -	527
carnal knowledge defined - - - - -	527
making or having gunpowder, &c., with intent to commit any felony against this act - - - - -	528
justices may issue warrants for searching houses, &c. for such gunpowder, &c. - - - - -	528
a person loitering at night, and suspected of any felony against this act, may be apprehended - - - - -	528
punishment of principals in the second degree and accessories - - -	528
offences within jurisdiction of Admiralty; hard labour, &c.; conviction not to be quashed for informality, &c. - - - - -	529
guardians and overseers may be required to prosecute in certain cases of offences against this Act; costs of prosecution; clerks of guardians may be bound over to prosecute - - - - -	529
on a conviction for assault, the court may order payment of prosecutor's costs by defendant - - - - -	529
such costs may be levied by distress - - - - -	530
summary proceedings how to be had; costs of prosecutions for misdemeanors against this act - - - - -	530

OFFENSIVE MATTER :

penalty for causing, to run into any thoroughfare or uncovered place from manufactory, &c. - - - - -	31, 278, 286
penalty for certain offences in relation to removal of - - - - -	31

OLD METALS, DEALERS IN (24 & 25 Vict. c. 110.):

definition of terms - - - - -	323
power to issue search warrant for stolen property; penalty on dealer in old metals being in possession of stolen property; saving for proceeding by indictment - - - - -	323, 324
justices may order dealer to be registered - - - - -	324
dealer to give notice of change of place of business; penalty - - - - -	325
notice to be given by superintendent of police on removal of dealer out of petty sessional district - - - - -	325
power to authorize inspectors and serjeants of police to visit places of business of registered dealers in old metals - - - - -	325
regulations to be observed by registered dealers in old metals; penalty - - -	326, 327
recovery of penalties; costs of prosecutions - - - - -	327
application of penalties - - - - -	327
appeal - - - - -	328
schedule - - - - -	328

PACKAGES, BREAKING, OPENING, &c. See MISDEMEANOR.

PARK, &c. :

penalty for damaging any tree, shrub, or seat in - - - - -	28
penalty for exposing anything for sale in, without proper consent - - -	32

PASSENGERS BY SEA, CARRIAGE OF (18 & 19 Vict. c. 119.):

definition of terms - - - - -	296
to what vessels and voyages act extends - - - - -	297
penalty on persons found on board ships, without consent of owners, &c. - - -	297
return of passage money - - - - -	298
subsistence in case of detention - - - - -	298
provision in case of wreck, &c.; removal of passengers by emigration officer - - - - -	298

PASSENGERS BY SEA, CARRIAGE OF—continued.

	Page
penalty on wrongfully landing passengers - - - -	298
passengers to be maintained for 48 hours after arrival; penalty - -	298
passengers right of action preserved - - - -	298
no person to act as a passage broker without a licence; emigration com- missioners and agents of passage brokers exempted; passage brokers responsible for their agents - - - -	298, 299
passage brokers licence how obtained; duration and forfeiture thereof -	299
passage brokers to employ no agents except those expressly appointed by them; agents to produce appointments, on demand - - - -	299
penalty on persons fraudulently inducing others to engage passages -	299
contract tickets required for cabin and other passengers; penalty for de- fault - - - -	299, 300
penalty for altering or inducing any one to part with contract ticket -	300
summary remedy for breach of contract - - - -	300
penalty on passengers and on masters, &c. omitting to produce contract tickets to emigration officer - - - -	300
penalty on persons acting as runners without licence and badge, and on passage brokers employing them - - - -	300
mode of licensing and registering runners - - - -	301
emigrant runner's licence to be renewed annually - - - -	301
penalty on runner for certain acts of misconduct; penalty on persons using badges not lawfully issued to them - - - -	301
runners not entitled to commission from any passage broker unless acting with written authority, nor from emigrants for procuring their passage - - - -	301
list of agents and runners to be exhibited by brokers and sent to emigra- tion officers; penalty for default - - - -	302
penalty for falsifying documents to obtain passages from emigration commissioners, &c. - - - -	302
by whom penalties are to be recovered; by whom passage, subsistence and compensation monies may be recovered - - - -	302
tribunal for adjudicating on offences and complaints under act, &c. -	302
police, &c. magistrate to have same powers as justices - - - -	304
informality - - - -	304
application of penalties - - - -	304
limitation of proceedings - - - -	304
colonial voyages defined - - - -	304
extent of application of act to colonial voyages - - - -	305
schedules - - - -	305

PAWNBROKER :

penalty on, for receiving a pledge, &c. from a person under 16 within metropolitan police district - - - -	24
rates to be taken by - - - -	221, 222, 223
to give farthings in change - - - -	222
limitation of profit for part of a month - - - -	223
pawns to be entered in books, and note to be given to pawner - -	223-5
amount of profit to be endorsed on duplicate when pledge redeemed -	225
forgery of pawnbroker's note - - - -	226
penalty for unlawfully pawning or disposing of goods belonging to any other person - - - -	225
detention, &c. of persons offering to pawn, &c. goods, and not giving a satisfactory account of themselves - - - -	227
forfeiture for buying or taking in pawn unfinished goods, linen, &c. in- trusted to any person - - - -	228
search warrants for such goods, &c., and for goods unlawfully obtained	229, 230
punishment of pawnbroker not restoring goods pawned, on proper tender within period during which they are redeemable - - - -	231
persons producing pawn notes to be deemed owners of goods pawned -	233
provision for loss of pawn note - - - -	233
pawned goods may be sold by auction at the end of a year - - - -	234
certain goods to be sold by themselves - - - -	235

PAWNBROKERS—continued.

	Page
a further period of three months for redemption allowed, upon notice -	235
account of sales to be entered by pawnbroker, and surplus beyond what is due paid to owner -	236
restrictions on purchase by, of goods pledged, and on other purchases by, and as to persons from whom and times during which pledges may be received -	24, 237, 242
to print and expose to view of persons pawning, &c. goods, rates of profit, &c. -	238
to paint name and business over door, under penalty -	238
satisfaction to be made for goods sold before proper time, &c., and for loss, &c. of goods -	238
to produce books, &c., when required by justice, under penalty -	239
penalty on, for not making required entries, or otherwise offending, &c. time within which offences against Pawnbrokers' Act (39 & 40 Geo. 3. c. 99.) must be prosecuted -	240
churchwardens and overseers to prosecute on notice from a justice -	241
persons having been convicted of certain offences not to prosecute Pawnbrokers' Act not to apply to persons lending money at not exceeding £5 per cent. per annum -	241
pleading of general issue, &c. -	241
form of conviction; appeal -	241
who to be deemed pawnbrokers -	242
penalty on persons declared pawnbrokers for not taking out licence -	243
<i>See STOLEN GOODS.</i>	

PEACE, BREACH OF :

using in any throughfare, &c. threatening words, &c. to provoke -	28
---	----

PENALTIES UNDER METROPOLITAN POLICE FORCE AND POLICE COURTS ACTS :

on policeman, for neglect of duty -	13
on policeman, for not delivering up accoutrements, &c. on ceasing to hold office -	14
for unlawful possession of accoutrements, &c., or unlawfully assuming dress, of a policeman -	14
for assault on, or resistance to, officer of police force -	14, 15 note, 65
on publican, &c. for harbouring a policeman while on duty -	15
on master, &c. of vessel for having on board any gun loaded with ball, or firing any gun at night -	19
for heating combustible matter on board any vessel -	19
for keeping a fair open within forbidden hours -	19
for being in a fair within forbidden hours and not quitting when bidden for pitching booth, &c. for, or resorting to unlawful fair with any show, &c. -	20
on licensed dealer in exciseable liquors for supplying a person under 16 with distilled exciseable liquor to be drunk on the premises -	21
on keeper of house of public resort wherein provisions are sold or consumed, for permitting disorderly conduct, &c. -	22
on keeper of such house for making internal communication with adjoining licensed house, &c. -	22
for keeping, &c. an unlicensed theatre -	22
for performing in unlicensed theatre -	23
for being in unlicensed theatre -	23
for keeping a place for bear-baiting, cock-fighting, &c. -	23
on any person found in such place -	23
on keeper, &c. of common gaming house -	23
on any person found in common gaming house -	23
on pawnbroker for taking a pledge, &c. from a person under 16 within metropolitan police district -	24
for a variety of nuisances in thoroughfares, &c. <i>See also the particular heads of nuisance in this Index</i> -	26-9, 30-2
for discharging cannon near a dwelling-house after warning -	29
for using a dog in drawing any cart, &c. -	29

PENALTIES UNDER METROPOLITAN POLICE FORCE AND POLICE FORCE ACTS
—continued.

	Page
on street musician for not departing when required for reasonable cause -	30
on drunkard for riotous or indecent behaviour in any thoroughfare -	30
for violent or indecent behaviour in any police station -	30
for riding upon a carriage without driver's consent -	30
for suffering to be at large any dog, &c. in a rabid state -	33
for offences against 2 & 3 Vict. c. 47. for which no special penalty appointed -	37
procedure for -	38, 41, 44, 45, 54, 59
application of -	39, 41, 56
imprisonment for nonpayment of -	39, 41, 55
under 2 & 3 Vict. c. 47. recoverable on summary conviction -	41
for having or conveying stolen goods -	45, 46, 47, 63
on common informer for compounding information -	49
recovered before police magistrates, when to be paid to Receiver -	56
for obtaining money by threatening information for misdemeanor, &c. -	61
saving of power to proceed by indictment, and of penalties under other acts -	37
saving as to customs, &c. acts -	58

PIGSTY :

penalty for keeping, under certain circumstances -	32
--	----

PIT :

penalty for not sufficiently fencing open -	32, 276, 284
penalty for leaving open without sufficient light after sunset -	32

POLE. See PROJECTION.

POLICE COURTS, METROPOLIS :

existing, continued -	42
number and situation of, may be altered -	42, 59
police court divisions -	59
magistrates and officers of, exempt from juries -	42
appointment of officers of -	43
officers of, to act as constables in certain cases -	43
magistrates and officers of, disabled from voting -	43
salaries of magistrates and officers -	43
attendance of magistrates at -	43, 59
rules for conducting business of -	44
expenses of, certain fees, &c. to be applied towards -	56

POLICE FORCE, METROPOLITAN :

establishment, &c. -	4
regulations for government -	5, 63
statement as to, to be laid before parliament -	6
persons belonging to, not to vote in certain elections -	6, 64

See POLICEMEN, METROPOLITAN ; YARDS, HER MAJESTY'S.

POLICE MAGISTRATES, METROPOLITAN :

policemen to attend on, at police courts -	13
may order horses, carriages, &c. of offenders to be sold for payment of penalty, &c. -	35
existing, continued -	42
number of, to police courts, may be altered -	42
total number of -	42, 59
supply of vacancies among -	42, 63
appointment by, of deputy -	63
to be justices, without qualification -	42
oath -	42
exempt from juries -	42
jurisdiction and powers of -	43
reports of, to Secretary of State -	44

POLICE MAGISTRATES, METROPOLITAN—continued.

	Page
warrants of, may be executed out of metropolitan police district without endorsement -	44
procedure by, in cases to be summarily determined; limitation of time, &c. -	38, 44, 45, 54
may issue warrant for apprehension without previous summons -	45
may enforce attendance, &c. of witnesses -	45
persons giving false evidence before, punishable for perjury -	45
may issue search warrant for stolen goods, &c. -	46
inquiry by, for finding out who has had possession of stolen goods, &c. with guilty knowledge -	46, 47, 419
may order restitution of stolen property, &c. in hands of brokers and others -	47, 48
may order restitution of stolen property, &c. in the custody of constable in certain cases -	48
may award costs -	49
may award amends against informer for unfounded charge -	49
may lessen share of penalty payable to informer -	50
may mitigate penalties -	50
may remand, or suffer to go at large on recognizance -	50, 60
may settle disputes about wages for labour on the Thames, &c. (except by Trinity ballastmen) -	51
may order compensation for wilful damage by tenant -	51
may give redress in certain cases of unlawful, irregular, or excessive distresses -	51
may order delivery of goods unlawfully detained in certain cases -	52
may order filthy and unwholesome house, &c. to be cleansed -	53
levying of penalties, &c. ordered to be paid, by distress; imprisonment in default of sufficient distress -	55
payment and application of penalties recovered before; accounts thereof -	56
forms of information and conviction to be used by -	56
appeal to, from the leet, in certain cases -	61
proceedings by, for giving possession of deserted premises -	61

See PENALTIES; POLICE COURTS; &c.

POLICEMEN, METROPOLITAN :

general powers, &c. of -	4
may be sworn to act for the palaces -	5
may on emergency be authorized to act in the city of London -	4 note †
additional, may be appointed at cost of individuals -	5
suspension and dismissal -	6
disqualified from voting -	6, 64
superannuation allowances -	7
pensions and compassionate allowances to widows and children -	8
attendance of, at police and other criminal courts -	13
service by, of summonses -	13
execution by, of warrants -	13, 44
resignation of office -	14
may take into custody persons letting fall into the river, &c. stores, &c. belonging to any vessel, &c., to avoid seizure, &c. -	16
may take into custody without warrant persons committing certain offences within view -	29, 256
may destroy any dog, &c. suspected to be mad, &c. -	33
may apprehend without warrant any person causing hurt or damage by any offence, &c. -	33
may apprehend without warrant persons committing offences within view, where names and residences are unknown -	33, 257, 282, 289
may apprehend without warrant idle and disorderly persons, &c. -	33, 125, 450, 474, 528
may apprehend without warrant persons charged with recent aggravated assaults -	34
may apprehend without warrant persons committing certain offences punishable upon indictment, or on summary conviction -	34, 450, 474, 509

POLICEMEN. METROPOLITAN—continued.

	Page
may apprehend without warrant persons throwing rubbish, &c. into the Thames - - - - -	405
may stop, &c. any vessel, cart, &c., or person suspected of having anything stolen, &c. - - - - -	34
may stop carts, &c. removing goods to evade payment of rent - - - - -	35
may take charge of any horse, cart, &c. of the offender when taken into custody, as security for penalty, &c. - - - - -	35
to take persons apprehended without warrant to nearest station-house - - - - -	35, 36 note
actions against, for acts done in pursuance of Metropolitan Police Force and Police Courts Acts - - - - -	39, 57
action against, for acts done in obedience to warrants - - - - -	40, 41
militia notices, &c. to be served, &c. by - - - - -	61
<i>See APPREHENSION; FIRE; INSPECTOR; LARCENY; PENALTIES, &c.; POLICE STATION; SERJEANT; SUPERINTENDENT; VAGRANT; YARDS, Her Majesty's; and other heads of this Index.</i>	

POLICE RATE. See EXPENSES OF POLICE.**POLICE STATION :**

raising money for building and improving - - - - -	10
penalty for violent or indecent behaviour in - - - - -	30
persons apprehended without warrant by policeman to be taken to - - - - -	35, 36 note
power to policeman in charge of, to take recognizances at, in certain cases - - - - -	36, 36 note
power to such policeman to require persons making certain charges to enter into recognizances, or to discharge person charged upon recognizance - - - - -	36
condition of recognizance taken at - - - - -	36, and note, 60
duty of such policeman as to recognizances - - - - -	36, and note

POLICE SUPERANNUATION FUND :

formation, &c. - - - - -	6, 49, 56
exemption of certain persons from deduction from pay in respect of - - - - -	65
allowances from - - - - -	7
provision for deficiency - - - - -	7

*See RECEIVER.***PRIVY :**

penalty for emptying, between certain hours - - - - -	31
---	----

PROJECTION :

penalty for setting up or continuing, from any house, &c. - - - - -	32, 251
power to vestry or district board to remove - - - - -	251

PROCEDURE under Metropolitan Police Force and Police Courts Acts :

in respect of offences punishable on summary conviction; limitation of time, &c. - - - - -	38, 41, 44, 45, 54, 56, 59.
--	-----------------------------

PROSTITUTE :

penalty on, annoying inhabitants or passengers - - - - -	28
penalty on, behaving in riotous or indecent manner in highway or place of public resort - - - - -	122-125

PUBLIC HOUSES :

annual licensing meetings to be holden - - - - -	172
appointment of time and place of meeting, and notices thereof - - - - -	173
adjourned meetings - - - - -	173
special sessions for transfer of licences - - - - -	173
notices of adjournment and of special sessions - - - - -	173
disqualification of justices - - - - -	174, 182
power for county justices to act for liberties, in certain cases - - - - -	174
licences to be signed, &c. by majority of justices - - - - -	174
notice of application for a first licence - - - - -	174
notice of intention to apply for permission to transfer licence - - - - -	174

PUBLIC HOUSES—*continued.*

	Page
power to applicant in case of sickness to attend meeting by proxy -	175
form and duration of licence -	175
provision for case of death, change of occupancy, or other contingency -	175
fees to clerk to justices for licences ; penalty for extortion -	176
persons incapable of holding a licence -	176
excise licence to be granted only to a person licensed by justices -	176
penalty for selling exciseable liquor by retail, to be consumed on the premises, without licence ; proviso for case of death, &c. -	177
licensed persons to use standard measures ; penalty for default -	177, 181
power to order houses to be closed in case of riot, &c. -	177
penalties for offences against tenor of licence -	177
power to order prosecution to be carried on by petty constable ; expenses -	179
penalty on witness not attending -	179
recovery and application of penalties on justices -	179
other penalties how enforced and applied -	179
appeal ; costs -	179, 180
actions, &c. -	180
conviction to be on oath ; form -	180
return of conviction to quarter sessions ; evidence ; informality, &c. -	180
saving -	180, 182
meaning of "exciseable liquor" -	180
transfer or grant of licences at petty sessions -	181, 182
power for constables to enter ; penalty for not admitting -	192
penalty on drunkards, &c. refusing to quit ; power for constables to expel them -	214
<i>See SUNDAY, &c.</i>	

PUBLIC STATUTES WITHIN THE METROPOLITAN POLICE DISTRICT, PROTECTION OF (17 & 18 Vict. c. 33).

interpretation of terms -	336
power to erect statues, and repair same, and do all necessary acts -	336
restriction on erection of statues in public places -	336
power to transfer statues to Commissioners of Works -	336
schedule -	337

QUAY :

See LARCENY ; MISDEMEANOR ; VAGRANT.

RECEIVER OF THE METROPOLITAN POLICE DISTRICT, &c. :

appointment -	8, 9, 43
duties -	8, 9, 43
accounts -	8, 9, 43
contracts -	8, 9, 43
salary -	8, 9, 43
disqualification -	8, 9, 43
superannuation -	3
a corporation sole -	3
vesting of property in -	3
non-liability -	9
keeping of official account at the Bank ; disposition and acquisition of property by -	9
payments to, to be made to account at the Bank -	9
constituted Receiver of metropolitan police courts -	43
monies, &c. seized in common gaming house to be paid to -	23

RECEIVER OF THE METROPOLITAN POLICE DISTRICT, &c.— <i>continued</i> .		Page
penalties to be paid to	- - - - -	39, 42, 56
after 12 months may sell, &c. goods, &c. delivered to, for benefit of	- - - - -	
superannuation fund	- - - - -	49
accounts of fees, &c. received at police courts to be delivered to, and	- - - - -	
amount paid to	- - - - -	56
payments under Metropolitan Buildings Act to be made by and to	- - - - -	260

RECOGNIZANCE :

taken at station house, form of, &c.	- - - - -	36, and note, 60
--------------------------------------	-----------	------------------

REFRESHMENT HOUSES, &c. :

duties for refreshment house licences and licences for sale of wine	- - - - -	204
what to be deemed a selling by retail of foreign wine	- - - - -	205
penalty on person licensed to sell wine not to be drunk on premises for	- - - - -	
permitting drinking in a neighbouring house, &c.	- - - - -	205
what to be deemed refreshment house, and who may take out licence	- - - - -	
for same	- - - - -	205
to whom licences to sell foreign wine to be drunk on the premises may	- - - - -	
be granted; disqualifications	- - - - -	206, 208
penalty for keeping refreshment house without licence	- - - - -	206
who to grant licences, &c.	- - - - -	206
duration of licences	- - - - -	206
provisions in favour of widow, &c. in case of death	- - - - -	206
notice of first application for licence; objections; objections to	- - - - -	
renewal	- - - - -	206, 207
list of licences to be kept, &c.	- - - - -	207
production of licence in case of complaint	- - - - -	207
power for constables to enter refreshment houses; penalty for not	- - - - -	
admitting	- - - - -	207
excise penalties, &c.	- - - - -	207, 208, 214
penalty for selling wine without proper licence	- - - - -	207
what to be deemed foreign wine or spirits	- - - - -	208
conviction of felony, or of selling spirits without licence, to disqualify	- - - - -	
from selling wine or holding licence for so doing; penalty	- - - - -	208
entry to be made with the excise	- - - - -	208
power for excise officers to enter premises of licensed retailers of wine	- - - - -	208
standard measure to be used in sale of wine; penalty for default	- - - - -	208
hours for opening and closing houses licensed for sale of wine;	- - - - -	
penalty	- - - - -	209
power to close houses licensed for sale of wine in case of riot, &c.	- - - - -	209
penalty on licensed retailers of wine permitting drunkenness or dis-	- - - - -	
orderly conduct, or adulterating wine	- - - - -	210
recovery of penalties (except excise penalties)	- - - - -	211
power to adjudge premises disqualified	- - - - -	212
penalties for offences in refreshment houses	- - - - -	212
power to mitigate penalties	- - - - -	212
appeal; costs of appeal	- - - - -	212
power to order prosecution of appeal by constable; expenses	- - - - -	212
witnesses; penalty	- - - - -	213
penalty on drunkards, &c. refusing to quit; power to constables to	- - - - -	
expel them	- - - - -	214
11 & 12 Vict. c. 43. applied	- - - - -	214
saving	- - - - -	214

REWARDS FOR APPREHENSION OF OFFENDERS :

See EXPENSES OF PROSECUTIONS.

RIDING :

furiously, penalty for	- - - - -	27, 282
------------------------	-----------	---------

	Page
ROGUE AND VAGABOND :	
person committing any of the following offences to be deemed :—	
committing any offence for which he is liable to be convicted	
as an idle and disorderly person, after having been so convicted	
telling fortunes	
wandering abroad and lodging in barn, open air, &c.	
exposing obscene print &c., or indecent exhibition in highway	
or public place, or in window	
exposing the person	
exposing wounds, &c. to obtain alms	122-
seeking charitable contributions by false pretence	124,
running away and leaving wife or child chargeable	131
playing or betting in highway or public place with gaming table, &c.	
having any picklock, key, &c., or being armed with intent to break	
in, &c. with intent to commit felony	
being in a dwelling house, garden, area, &c. for unlawful purpose	
suspected person or reputed thief frequenting place of public resort,	
&c.	
violently resisting apprehension as an idle and disorderly person	
discharged prisoner having certificate enabling him to receive alms on	
route, deviating from route, &c., to be deemed	129
<i>See VAGRANT.</i>	
ROUTE :	
of carriages, &c. during divine service, and during public processions,	
&c., Commissioners of Police may regulate	24-5
penalty for not conforming to the regulations	26-8
<i>See CATTLE.</i>	
SEAMEN. <i>See</i> MERCHANT SHIPPING.	
SEAT :	
in any public park, &c., penalty for damaging	28
SENDING LETTER DEMANDING MONEY WITH MENACES, OR THREATENING	
TO ACCUSE OF CRIME WITH INTENT TO EXTORT. <i>See</i> LARCENY.	
SENDING LETTER THREATENING TO BURN OR DESTROY HOUSE, &c.	
<i>See</i> MALICIOUS INJURIES TO PROPERTY.	
SENDING LETTER THREATENING TO MURDER.	
<i>See</i> OFFENCES AGAINST THE PERSON.	
SERJEANT OF METROPOLITAN POLICE FORCE:	
may board vessels for preventing and detecting felonies, &c.	18
SERVANTS. <i>See</i> APPRENTICES.	
SEWER, &c. :	
penalty for causing dirt, &c. to fall into	31, 255
penalty for not sufficiently fencing open	32
penalty for leaving open, without sufficient light after sunset	32
SHIP. <i>See</i> VESSEL.	
SHOP :	
penalty for exposing anything for sale on the outside of	32
SHOW :	
penalty for showing, in any thoroughfare, &c. to the annoyance of	
inhabitants or passengers	26
SLAUGHTERING OF CATTLE (not killed for butchers meat) :	
regulations as to licence for keeping places for; cancelling of licences;	
penalty for not affixing name, &c.	133, 136, 139
regulations as to slaughtering cattle, and as to cattle sent to be	
slaughtered, &c.	134, 139
account of cattle to be kept	134, 140

SLAUGHTERING OF CATTLE (not killed for butcher's meat)— <i>continued.</i>	Page
appointment of inspectors of slaughtering houses - - -	134
duties of inspectors - - -	134
power for inspectors to enter slaughtering houses - - -	134
person bringing cattle to be killed, &c., and not giving satisfactory account, how to be dealt with - - -	134
slaughtering, &c. contrary to act, felony; punishment - - -	135
immersing hide in lime, &c. a misdemeanor; punishment - - -	135
penalty on licences making false entry - - -	135
inspector's books to be produced at quarter sessions - - -	135
penalty for lending a place for slaughtering cattle without licence - - -	135
saving for curriers, &c. - - -	136
penalty on currier, &c. killing a sound horse, &c. - - -	136
penalty for ill-treatment of cattle - - -	136
power for constable to enter licensed places - - -	136
penalty for obstructing inspector - - -	137
penalty on inspector neglecting his duty - - -	137
hearing of complaints; application of penalties; limitation of time; appeal - - -	137
interpretation of terms in 7 & 8 Vict. c. 87. - - -	137

SLAUGHTERING OF HORSES, See SLAUGHTERING OF CATTLE.

SLIDE :

penalty for making or using, in any thoroughfare, &c. - - -	29
---	----

SMOKE NUISANCE, &c. ABATEMENT :

penalty for using furnace not consuming its own smoke, or carrying on noxious trade, &c. - - -	272, 275
penalty for working a steam vessel above London Bridge which does not consume its own smoke - - -	273
such penalty extended to vessels plying between London Bridge and places westward of Nore light - - -	275
to what extent smoke required to be consumed - - -	273
power to constables under authority of Commissioner of Police to inspect premises, &c.; penalty for obstructing constable - - -	274
restriction on laying information for penalty - - -	274, 275
"metropolis" defined - - -	274
recovery of penalties - - -	275

SONG :

penalty for singing in any thoroughfare, &c. any profane, indecent, or obscene - - -	28
--	----

SOUTHWARK :

boundaries of parliamentary borough of - - -	24 note †
--	-----------

STAGE CARRIAGE :

proprietor of, not liable to penalty for deviation from route by any regulation of Commissioners of Police - - -	26
duties - - -	82, 94
definition of - - -	82
licence, plates, &c. required - - -	83
what to be deemed, in proceeding for penalty or duty - - -	83
licences by whom and where granted - - -	83
requisition for licence; penalty for false statement - - -	83
procuring licence in fictitious name, &c. - - -	83
contents of licence - - -	84
copy of licence to be given and to be evidence - - -	84, 94
compounding for duties - - -	84
duration of licence - - -	84, 94
discontinuance of licence - - -	84
supplementary licence - - -	84, 94

STAGE CARRIAGE—*continued.*

	Page
payment, &c. of duty, and allowance for duty on journeys not performed	84
penalty for false account of journeys	84
recovery of duties by distress	84
duties payable for unlicensed stage carriage in addition to penalty	84
separate licences for every pair of plates	84
defaced or lost plates	84
recall of plates	84
where plates to be fixed	85
penalty for keeping, without licence or without proper plates, or not delivering up recalled plates	85
using of, contrary to licence, &c., to be deemed using without licence	85
death, &c. of person licensed	85, 94
penalty for plying without plates	85, 94
power for constable, &c. to apprehend driver and conductor, and seize carriage, where plying without plates	86, 95
exempt, when duly licensed, from provisions relating to hackney carriages	87
forging, &c. of stamp office plate	87
power for constable, &c. to seize forged plate	87
power for constable, &c. to seize plates used without a licence in force or recalled plates	87
penalty for obstructing constable, &c. seizing plates	88
particulars to be painted on; penalty for neglect, &c.	88, 96
regulations as to carriage of luggage on the top	88, 89, 93
height of luggage from the ground	89
regulations as to number of passengers	88, 89, 93, 95-97
penalty for carrying an excessive number of passengers	96, 97
evidence in prosecutions relating to the carrying of passengers	98
power for constables, &c. to measure carriage, &c.; penalty for obstruction	89, 97
saving for certain mail coaches	89, 95
penalty on driver of carriage drawn by three or more horses quitting box before a proper person is at horses' heads; and on person placed at horses' heads for leaving them	89
penalty on driver for permitting other person to drive	89, 90
for needlessly quitting box	89, 90
for concealing or misplacing plates	89, 90
penalty on guard for unnecessarily discharging fire-arms	90
penalty on driver, conductor, or guard	90
for not taking due care of luggage	90
for taking more than proper fare	90
for not accounting to employer	90
for misconduct to passenger, &c.	90
penalty on driver, conductor, guard, &c. for endangering passenger, &c. or property through misconduct	90, 281, 287, 519
proprietor liable to penalty on driver, &c. in certain cases	90
power to enter toll-houses to check stage carriages	91
penalty for corruptly conniving at offences	91
recovery of duties and penalties	91, 93, 98
mitigation of penalties	91
application of penalties	92, 93
costs, &c. may be awarded to defendants	92
summons with reference to duty or penalty, and notice, how served	92
penalty on constable refusing to serve summons, &c.	92
penalty on witness not attending, &c.	92
forms of proceedings	92
liability of, and horses, &c., for duties, &c.	93
sale of goods distrained	93
actions for acts done	93
interpretation of 2 & 3 Will. 4. c. 120. and 5 & 6 Vict. c. 79.	93, 98
powers of stamp acts applied	93, 98
licence to let horses for hire not required in respect of horses used in	119

See CRUELTY TO ANIMALS; STAGE CARRIAGE, METROPOLITAN.

STAGE CARRIAGE, METROPOLITAN :

	Page
definition of	99
registrar	100
particulars to be painted on ; penalty for default	88, 96, 100
recovery of fare	100
licences to drivers and conductors	100
duty on such licences	101
penalty on persons acting without licence, &c.	101
penalty on proprietor employing unlicensed persons	101
requisition for licence; penalty for offences in relation to procuring licence	101
notice, &c. of change of abode of driver, &c.; penalty for default	102
entry of licences; copies evidence	102
tickets to be worn by drivers; penalty for default or refusing inspection	102
delivery up of licence and ticket on expiration of licence; penalty for default, &c.; power for constable, &c. to seize ticket	102, 103
delivery of new tickets instead of tickets defaced or lost; penalty for using defaced ticket	103
forgery of licence or ticket; power for constable, &c. to seize same	103
proprietor to retain licence of driver or conductor, and produce same on complaint	103
settlement of disputes between proprietor and driver or conductor	104
agreements between proprietor and driver or conductor to be in writing	104
delivery up of driver's or conductor's licence on quitting employment	104
revocation or suspension of driver's or conductor's licence	104
penalty on driver or conductor for allowing any person to act as such without proprietor's consent, &c., and on person so acting	105
power for constable to take into custody any person unlawfully acting as driver or conductor, and to take charge of carriage, &c.	105
penalty on driver or conductor for misbehaviour	106, 281, 287, 519
compensation may be adjudged for hurt or damage caused by misbehaviour of driver or conductor	106
regulations as to plying for passengers	106
penalty on driver or conductor	
loitering or causing obstruction	
delaying carriage on journey	
deceiving any person as to route	
refusing to admit passenger	
demanding more than legal fare	
stopping on crossing	
using noisy instrument	
smoking after objection	
on conductor allowing any person to ride on the steps or in the place provided for him	
proceeding against proprietor to compel production of driver or conductor for any offence; remedy of proprietor against driver or conductor	108, 142
jurisdiction as to offences, &c.	109, 117
limitation of time for complaints	109
recovery of penalties; proceedings not to be removed, &c.	109, 110
sale of goods distrained	110
summons or notice, how served on driver or conductor	110
summons or warrant may issue in first instance	110
penalty on witnesses refusing to attend	110
forms	110
where more proprietors than one, sufficient to name only one	110
mitigation of penalties	110
application of penalties	111
actions, &c. for acts done	111
abolition of office of registrar and transfer of duties to Commissioners of Police	111
inspection of, and of horses; notice of unfitness; suspension of licence for wrongful use after notice	112
penalty on proprietor and driver for using, without certificate of fitness or after notice of unfitness	112

STAGE CARRIAGE, METROPOLITAN—continued.	Page
delivery of property left in, to conductor or driver; penalty for default;	
deposit at police station; penalty for default; restoration to owner or	
disposition if unclaimed - - - - -	115
appointment of persons to enforce order where carriages call, &c.; wages	
of such persons, &c. - - - - -	115, 116
lights to be placed in - - - - -	116
bills, &c. not to be placed on or in, so as to cause annoyance - - -	116
penalty for offences where no special penalty appointed - - -	117
licences and duties, where to be granted and paid - - -	120
See STAGE CARRIAGE.	
STATIONS. See POLICE STATIONS.	
STATUTE LAW CONSOLIDATION (REPEAL OF ACTS)	414
See ACCESSORIES AND ABETTERS; COINAGE OFFENCES; FORGERY;	
LARCENY; MALICIOUS INJURIES TO PROPERTY; OFFENCES	
AGAINST THE PERSON.	
STOLEN GOODS:	
sale, &c. not to make any alteration of property - - - - -	47
forfeiture of double value of, for refusing information to true owner - } note †	
search warrant for - - - - -	46, 228-231, 323, 450
See APPREHENSION WITHOUT WARRANT; LARCENY; PAWN-	
BROKER; PENALTIES; POLICEMEN, METROPOLITAN; POLICE	
MAGISTRATE.	
STONE:	
penalty for sawing, &c. in any thoroughfare - - - - -	30
STONES, THROWING:	
penalty for, in any thoroughfare, &c. - - - - -	29
STREETS:	
Commissioners of Police may make regulations for preventing obstruc-	
tion of, during public processions, &c. - - - - -	25
See PENALTIES; ROUTE; THOROUGHFARE.	
STREET MUSICIAN:	
penalty on, for not departing when required for reasonable cause -	30
SUMMARY PROCEEDINGS BEFORE JUSTICES, IMPROVEMENT OF LAW (20 &	
21 Vict. c. 43.):	
interpretation of terms - - - - -	406
justices on application to state a case for opinion of superior court -	406
security to be given by appellant; liberation of appellant, if in custody,	
on recognizance - - - - -	407
justices may refuse a case where they think application frivolous -	407
where justices refuse, Queen's Bench may order a case to be stated -	407
superior court to determine the questions; its decision final - - -	407
amendment of case - - - - -	407
powers of superior court exerciseable by judge at chambers - - -	407
enforcing of conviction where affirmed, &c. by superior court - - -	407
certiorari not required - - - - -	407
superior courts may regulate proceedings - - - - -	407
"justices" to include stipendiary magistrate - - - - -	407
recognizances how enforced - - - - -	407
appellants to superior court not allowed to appeal to quarter sessions -	407
SUNDAY, &c.:	
hours for sale of fermented or distilled liquor on, in public houses, &c. 21, 201-203	
licensed victuallers, &c. not to open house for sale of any articles during	
hours prohibited for sale of fermented, &c. liquors - - - - -	201
power for constables to enter houses of public resort - - - - -	202, 203
penalties - - - - -	202, 203
construction of term "traveller" - - - - -	202, note †
hours for sale of exciseable liquors on, in vessels moored or lying at	
anchor; penalty - - - - -	203, 204
See ROUTE.	

INDEX.

601

SUPERINTENDENT BELONGING TO METROPOLITAN POLICE FORCE :	Page
may board vessels for preventing and detecting felonies, &c. -	17, 18
may board vessels and seize unlawful quantities of gunpowder -	18
<i>See OLD METALS, DEALERS IN.</i>	
SWINE.	
penalty for keeping, under certain circumstances - - -	32
TENANT :	
wilful damage by, police magistrate may order compensation for -	51
wilful damage by, a misdemeanor - - -	458
power to landlord to distrain, &c. goods fraudulently removed by -	214
penalty for fraudulent removal of goods by - - -	215
recovery of penalty in certain cases - - -	215
appeal, &c. - - -	215
power to landlord to break open houses, &c. with aid of constable, &c. to seize goods fraudulently removed - - -	215
<i>See LANDLORD ; LARCENY.</i>	
THAMES :	
certain boats used on, for sale of articles to seamen, &c. subject to provisions of 7 & 8 Geo. 4. c. lxxv. - - -	15
<i>See LASTAGE AND BALLASTAGE ; MISDEMEANOR ; SUNDAY.</i>	
THAMES POLICE :	
superannuation allowances to policemen formerly belonging to - -	12
THEATRES :	
unlicenced, Commissioners of Police may authorize superintendent with constables to enter and take persons into custody - - -	22
penalty for keeping - - -	22, 147
penalty for performing in - - -	22, 149
penalty for being in - - -	22
to be authorized by letters patent or licence ; penalty - - -	147
in what cases licences granted by lord chamberlain - - -	147
in what cases licences granted by justices ; regulations as to the granting of licences by justices - - -	147
to whom licences may be granted, &c. - - -	148
power for lord chamberlain to suspend licence granted by him or close patent theatre - - -	148
rules for enforcing order, &c. in theatres licensed by justices - -	148
plays to be submitted to lord chamberlain, &c. - - -	149
power for lord chamberlain to forbid any play - - -	149
penalty for acting, &c. stage play before allowance, or contrary to prohibition ; forfeiture of licence - - -	149
what to be deemed acting for hire - - -	150
burden of proof of theatre being licensed, &c. to be on party accused -	150
recovery of penalties ; appeal ; appropriation of penalties ; limitation of time - - -	150
interpretation of terms in 6 & 7 Vict. c. 68. - - -	150
licences to sell beer, spirits, and wine in - - -	151
THOROUGHFARE :	
penalty for throwing or laying materials, &c. in - - -	31
penalty for causing offensive matter to run into, from manufactory, &c. - - -	31, 278, 286
penalty for certain offences in relation to removal of nightsoil, &c. along -	31
<i>For other nuisances, see the particular heads of nuisance in this Index, and HACKNEY CARRIAGE ; PENALTIES ; STAGE CARRIAGE, METROPOLITAN.</i>	
TIMBER :	
penalty for sawing, &c. in any thoroughfare - - -	30

TOLLS :	Page
exemption from, of horses and police vans in service of metropolitan police - - - - -	12
TOWER HAMLETS :	
boundaries of parliamentary borough of - - - - -	24 note †
TRAFALGAR SQUARE :	
provisions of Metropolitan Police Acts extended to - - - - -	4 note †
TRANSPORTATION, SUBSTITUTION OF OTHER PUNISHMENT :	
substitution of sentence of penal servitude for sentence of transportation in all cases - - - - -	412
conditional pardons to be allowed with reference to the substituted punishment - - - - -	410
persons under sentence or order of penal servitude how dealt with - - - - -	410
application of acts, &c. concerning convicts sentenced to transportation - - - - -	411, 412
Her Majesty may grant licences to be at large to convicts under sentence of transportation - - - - -	411
licence while in force to exempt from imprisonment, &c. under sentence if licence revoked, convict may be apprehended and re-committed - - - - -	411, 412
prerogative saved - - - - -	412
discretion of courts as to alternative punishments saved - - - - -	412
appointment of places beyond the seas to which offenders sentenced to penal servitude may be conveyed - - - - -	412
enactments referring to crimes punishable by transportation to apply to crimes punishable by penal servitude - - - - -	413
TREE, &c. :	
in any public park, &c., penalty for damaging - - - - -	28
TUB :	
penalty for cleansing, &c. in any thoroughfare - - - - -	30
TURNPIKE ROADS, OFFENCES IN RELATION TO, (under General Turnpike Acts).	
penalty on surveyor not causing pits to be fenced, &c. - - - - -	284
penalty for riding &c. on footpaths - - - - -	284-286
damaging bridge - - - - -	
drawing timber - - - - -	
injuring road - - - - -	
slaughtering cattle - - - - -	
obstructing passage of travellers - - - - -	
pitching tent - - - - -	
exposing light of blacksmith's shop - - - - -	
making bonfires - - - - -	
baiting bulls, playing at football, &c. - - - - -	
leaving waggons, &c. - - - - -	
laying timber - - - - -	
suffering water or filth to run on road - - - - -	
suffering swine to damage road, &c. - - - - -	
leaving block stones, &c. - - - - -	
damaging lamps, &c. - - - - -	286, 293
injuring toll table - - - - -	
injuring fences - - - - -	290, 291
injuring erections - - - - -	
injuring drains, &c. - - - - -	
carrying away road materials, &c. - - - - -	
interrupting free passage - - - - -	
making saw-pits - - - - -	293
neglecting to light toll houses - - - - -	
provision as to use of skid pans ; penalty - - - - -	286
provision as to one person having charge of more than one cart ; penalty - - - - -	287
no cart to be driven by a person not 13 years old ; penalty - - - - -	287

TURNPIKE ROADS (Offences in relation to)— <i>continued.</i>	Page
penalty on driver for riding on waggons, &c. - - - - -	-
causing hurt or damage - - - - -	-
quitting the road - - - - -	-
driving carriage without owner's name - - - - -	-
not keeping the left or near side - - - - -	-
interrupting free passage - - - - -	-
not discovering his name - - - - -	-
penalty for resisting execution of act (3 Geo. 4. c. 126.) - - - - -	288
power to apprehend unknown offenders - - - - -	289
recovery, &c. of penalties - - - - -	289
recovery of penalties exceeding £20 - - - - -	289
appeal - - - - -	289
limitation of actions, &c. - - - - -	289
forms - - - - -	290
saving out of 3 Geo. 4. c. 126. - - - - -	290
penalty recoverable from owner, where driver not found and owner does not discover him - - - - -	291
power to impound cattle straying on road, &c. - - - - -	292
lighting of toll-houses, &c. - - - - -	293
penalties on injuring, &c. footpath adjoining turnpike road to attach, by whomsoever footway repaired - - - - -	293
penalty on fraudulent claim of exemption from toll - - - - -	293
limitation of time for prosecutions - - - - -	294
<i>See CART.</i>	
VAGRANT :	
power to apprehend offender without warrant - - - - -	125
issue of warrant for apprehension - - - - -	125
power to seize carts, &c. of vagrants ; searching of effects ; application of money, &c. towards expenses - - - - -	125, 126
recognizance to prosecute at sessions ; payment of expenses to prosecutor and witnesses - - - - -	126
penalty on constable for neglect of duty in relation to, and on any person hindering constable - - - - -	127
on conviction of constable justices may make order for payment of expenses of prosecution - - - - -	127
searching of lodging houses for, and apprehension of - - - - -	128
appeal to general or quarter sessions - - - - -	128
grant of certificates by justices to discharged prisoners, soldiers, &c., enabling them to receive alms in their route - - - - -	129
informality of proceeding, &c. - - - - -	129
actions for acts done, &c. - - - - -	129
person convicted as an idle and disorderly person or rogue and vagabond to be deemed actually chargeable - - - - -	129
persons committing offences under former acts - - - - -	130
recommittal of prisoners discharged, appealing and not appearing to prosecute - - - - -	130
<i>See IDLE AND DISORDERLY PERSON ; ROGUE AND VAGABOND ; INCORRIGIBLE ROGUE.</i>	
VAULT :	
penalty for leaving open or defectively protected, to the danger of passengers - - - - -	32
VESSEL :	
hours for sale of exciseable liquors in, on Sunday, &c., when moored or lying at anchor; penalty - - - - -	203, 204
<i>See BOATS ; INSPECTOR ; LARCENY ; MALICIOUS INJURIES TO PROPERTY ; MISDEMEANOR ; PENALTIES ; POLICEMEN ; SERJEANT ; SUPERINTENDENT.</i>	
VEXATIOUS INDICTMENTS PREVENTION :	
restriction on presentment of indictment for certain offences - - - - -	407
if justice refuse to commit, recognizance to be taken, &c., if prosecutor desire to prefer indictment - - - - -	408

WAGERS :	Page
contracts, &c. by way of wagering, void - - - - -	156
WAGES :	
of labourers on the Thames, &c. (except Trinity ballast-men) may be settled by police magistrate - - - - -	51
WALL, &c. :	
penalty for affixing posting bill, &c. against, or otherwise defacing, &c. -	28
WAREHOUSE. See MISDEMEANOR.	
WATCHBOXES :	
placing of - - - - -	9
WATERCOURSE, &c. :	
penalty for causing dirt, &c. to fall into - - - - -	31, 267
penalty on occupier, &c. for not keeping cleansed - - - - -	32
WELL. See WATERCOURSE.	
WHARF. See LARCENY; MISDEMEANOR; ROGUE AND VAGABOND; VAGRANT.	
WIDOWS :	
of policemen, pensions to - - - - -	8
WINE. See MISDEMEANOR.	
WINE, LICENCES FOR SALE OF. See REFRESHMENT HOUSES.	
WITNESS :	
party aggrieved, although examined as, may receive compensation for injury to property - - - - -	383
WOMEN DESERTED BY THEIR HUSBANDS, PROTECTION OF :	
wife deserted may apply to police magistrate, &c. for protection ; effect of order of protection - - - - -	329
on judicial separation, wife to be considered a <i>feme sole</i> as to property, contracts, and suits - - - - -	329, 330
provisions respecting property of wife to extend to property vested in her as executrix, &c. - - - - -	330
order for protection to protect dealings with wife before reversal of order - - - - -	330
order to state time when desertion commenced - - - - -	330
indemnity to corporations, &c. making payments under orders after reversal, &c., but without notice - - - - -	331
WORD, &c. :	
penalty for writing, &c. in any thoroughfare, &c., any indecent or obscene - - - - -	28
YARDS, HER MAJESTY'S :	
employment in, of constables of metropolitan police force - - - - -	63
regulations for government of the constables employed in - - - - -	63
appointment of additional constables in place of such constables employed in - - - - -	63
swearing of the constables to be employed in, and their powers, &c. - - - - -	64
expenses of employment of constables in - - - - -	64
interpretation of "yards" - - - - -	64
pensions for former police of, who have joined the metropolitan police force - - - - -	65
exemption from deduction from pay of former police who have joined the metropolitan police force - - - - -	65
YOUTHFUL OFFENDERS (CARE AND REFORMATION) :	
on application from voluntary institution to Secretary of State, same may become a reformatory school - - - - -	367
juvenile offenders under 16 may, in addition to punishment, be sent to reformatory - - - - -	367
power to Treasury to defray cost of maintenance at reformatory, or portion not recovered from parents, &c. - - - - -	368

YOUTHFUL OFFENDERS (CARE AND REFORMATION)— <i>continued.</i>		Page
punishment for absconding, or refractory conduct at reformatory	-	368
juvenile offenders may be removed by Secretary of State from one reformatory to another	- - - -	368, 369
contribution by parents to the maintenance of juvenile offenders in reformatory, and enforcing of payment	- - - -	368-371
remission of payments	- - - -	369, 370
school to which offenders committed need not be named	- - - -	369
supplemental orders may be made before expiration of term of imprisonment	- - - -	369
offenders not to be sent to schools to which parents, &c. object	- - - -	369
expenses of conveyance, how to be met	- - - -	369
duplicate of warrant of commitment, or copy, to be sent with child to reformatory	- - - -	369
penalty for inducing to abscond from reformatory, or harbouring person absconding	- - - -	369, 371
list of reformatory or industrial schools to be published in Gazette, and publication to justify committal thereto	- - - -	369
provision for care of juvenile offenders when discharged from reformatory schools	- - - -	371
See INDUSTRIAL SCHOOLS; JUVENILE OFFENDERS.		

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